Also, petition of H. L. Russell, dean of Agricultural College of Wisconsin, for House bill 15422; to the Committee on Agriculture.

By Mr. COOPER of Wisconsin: Petition of legislature of Wisconsin, for enactment of House bill 39, relative to extending limits of Shiloh National Park; to the Committee on Military Affairs.

By Mr. COX of Ohio: Petition of Butler Encampment of Odd Fellows, of Hamilton, Ohio, for legislation making it a criminal offense for any person, firm, or corporation to publish, sell, or offer for sale what purports to be the written work of any fraternal order; to the Committee on the Judiciary.

Also, petition of Mitchell Post, No. 361, Grand Army of the Republic, of Camden, Ohio, and Milton Weaver Post, No. 594. Grand Army of the Republic, of Vandalia, Ohio, for amendment of the age pension bill; to the Committee on Invalid Pensions.

By Mr. DICKINSON: Paper to accompany bill for relief of Anna L. Yaple; to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of Fort Edwards Brewing Co., for removal of duty on barley; to the Committee on Ways and Means.

By Mr. ENGLEBRIGHT: Petition of Pacific Slope Congress, regarding a breakwater at Monterey Bay; to the Committee on Rivers and Harbors.

Also, petition of D. A. Russell and others, against the Tou Velle bill; to the Committee on the Post Office and Post Roads.

Also, petition of the California Society of Sons of the Revolution, regarding unpublished archives of the War of the Rebellion; to the Committee on Printing.

Also, petition of Pacific Slope Congress, regarding a national highway; to the Committee on the Post Office and Post Roads.

By Mr. FOCHT: Petition of officers of Milford Grange, No. 773, Patrons of Husbandry, of Juniata County, Pa., favoring Senate bill 5842, relative to oleomargarine law; to the Committee on Agriculture.

By Mr. GARNER of Texas: Petition of Schertz (Tex.) Camp, No. 1262, Woodmen of the World, favoring the Dodds bill; to the Committee on the Post Office and Post Roads.

By Mr. HAMER: Paper to accompany bill for relief of George Pool; to the Committee on Invalid Pensions.

By Mr. HAMMOND: Petition of committee of employees of Chicago Great Western Railway at Mankato, Minn., for hearings on railway rates; to the Committee on Interstate and Foreign Commerce.

Also, petition of Minnesota Canners' Association, for Federal inspection of canning factories and canned products; to the Committee on Agriculture.

By Mr. HAVENS: Paper to accompany bill for relief of Willis C. Hadley; to the Committee on Invalid Pensions.

By Mr. HUBBARD of West Virginia: Paper to accompany bill for relief of James W. Hollandsworth; to the Committee on Pensions.

Also, papers to accompany bills for relief of William H. Huffman and Amanda C. Swiger; to the Committee on Invalid Pensions.

By Mr. JOHNSON of South Carolina: Paper to accompany bill for relief of Charles Ladshaw; to the Committee on Pensions.

By Mr. JOYCE: Petitions of Dresden (Ohio) Post, No. 415, and Newport (Ohio) Post, No. 489, Grand Army of the Republic, for amendment to the age pension act; to the Committee on Invalid Pensions.

By Mr. LANGHAM: Petition of Walter Richards, of Brookville, Pa., against a parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of Brookville (Pa.) Brewing Co., for removal of the tariff on barley; to the Committee on Ways and Means.

By Mr. LEE: Paper to accompany bill for relief of James Malloy; to the Committee on Pensions.

By Mr. McHENRY: Petitions of Granges Nos. 34, 941, 924, 365, and 1338, for Senate bill 5842 and House bill 20582; to the Committee on Agriculture.

By Mr. MARTIN of Colorado: Paper to accompany bill for relief of Benjamin Dwight Critchlow; to the Committee on War Claims.

By Mr. MOON of Pennsylvania: Petition of David Lupton's Sons Co., of Philadelphia, Pa., favoring New Orleans for the Panama Canal Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of E. H. Price; to the Committee on Invalid Pensions.

Also, papers to accompany a bill to authorize the Secretary of War to resurvey a strip of land in Hamilton County, Tenn.; to the Committee on Claims.

Also, paper to accompany bill for relief of Elijah W. Fowler; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: Petition of the Civil Service Reform Association of Pennsylvania, to enlarge scope of civil-service law; to the Committee on Reform in the Civil Service.

Also, petition of Coppack Warner Lumber Co., of Philadelphia, Pa., favoring New Orleans for the Panama Exposition; to the Committee on Industrial Arts and Expositions.

Also, petition of Retail Clerks' International Protective Association, Local No. 262, against increase of labor hours for Government employees; to the Committee on Labor.

By Mr. ROTHERMEL: Petition of David W. Bohn and Henry A. Miller, of Grange No. 551, Patrons of Husbandry, of Shoemakersville, Pa., for amendment of law on oleomargarine (S. 5842); to the Committee on Agriculture.

By Mr. SHEFFIELD: Papers to accompany bills for relief of Thomas Blacklock, William G. Baker, and Margarite D. Pollard; to the Committee on Invalid Pensions.

By Mr. SHEPPARD: Paper to accompany bill for relief of George W. Davis; to the Committee on Pensions.

By Mr. WOOD of New Jersey: Memorial of Woman's Literary Club of Bound Brook, N. J., asking for the speedy and thorough investigation of the spread of disease to human beings from dairy products; to the Committee on Agriculture.

Also, affidavits to accompany House bill granting an increase of pension to Thomas Skillman; to the Committee on Invalid Pensions.

Also, petition of R. V. Kuser, of the People's Brewing Co., of Trenton, N. J., for the removal of the tariff on barley; to the Committee on Ways and Means.

By Mr. VREELAND: Petition of Jamestown Brewing Co., for removal of duty on barley; to the Committee on Ways and Means.

SENATE.

SATURDAY, *December 17, 1910.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed a concurrent resolution providing that when the two Houses adjourn on Wednesday, December 21, they stand adjourned until 12 o'clock m., Thursday, January 5, 1911, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 27400) to repeal an act authorizing the issuance of a patent to James F. Rowell, and it was thereupon signed by the Vice President.

HOLIDAY RECESS.

Mr. HALE. I ask the Chair to lay before the Senate the privileged resolution from the House.

The VICE PRESIDENT laid before the Senate the following concurrent resolution (H. Con. Res. 55) of the House of Representatives, which was read:

IN THE HOUSE OF REPRESENTATIVES,
December 16, 1910.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Wednesday, December 21, they stand adjourned until 12 o'clock m., Thursday, January 5, 1911.

Mr. HALE. I move that the concurrent resolution be referred to the Committee on Appropriations.

The motion was agreed to.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented memorials of sundry citizens and business firms of Nixon and Fort Worth, Tex.; of Elwood, Ind.; of Bellefontaine, Ohio; of Kankakee, Ill.; and of Demopolis, Ala., remonstrating against the passage of the so-called parcels-post bill, which were referred to the Committee on Post Offices and Post Roads.

Mr. CULLOM presented a petition of the Retail Grocers' Association of Joliet, Ill., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of Kenesaw Post, No. 77, Department of Illinois, Grand Army of the Republic, of Danville, Ill., remonstrating against the establishment of a volunteer officers' retired list, which was referred to the Committee on Military Affairs.

Mr. RAYNER presented petitions of the Ministers' Association and of sundry citizens of Havre de Grace, Md., praying for the enactment of legislation to prohibit the interstate transmission of race-gambling bets, which were referred to the Committee on the Judiciary.

Mr. PERKINS presented a petition of the Sempervirens Club, of California, praying for the enactment of legislation authorizing the granting of certain lands to the State of California to be added to the California Redwood Park, which was referred to the Committee on Public Lands.

He also presented a petition of a committee representing California oil men and placer mining locators, praying for the enactment of legislation to encourage the development and improvement of oil-mining lands and the oil-mining industry, etc., which was referred to the Committee on Public Lands.

Mr. PILES presented a petition of Local Lodge No. 1118, Modern Brotherhood of America, of Tacoma, Wash., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Trades Council of Everett, Wash., praying for the enactment of legislation to restrict immigration, which was referred to the Committee on Immigration.

LANDS IN MILLARD COUNTY, UTAH.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 8457) to restore to the public domain certain lands withdrawn for reservoir purposes in Millard County, Utah, reported it without amendment and submitted a report (No. 934) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LODGE:

A bill (S. 9657) to provide for the erection of a public building at Attleboro, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CLARK of Wyoming:

A bill (S. 9658) granting an increase of pension to Andrew Scoonmaker; to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 9659) to maintain at the United States Military Academy an engineer detachment; to the Committee on Military Affairs.

By Mr. SMOOT:

A bill (S. 9660) granting an increase of pension to John Gillespie (with accompanying papers); to the Committee on Pensions.

By Mr. HEYBURN:

A bill (S. 9661) granting an increase of pension to Leonora M. Talbot (with accompanying papers); to the Committee on Pensions.

By Mr. SCOTT:

A bill (S. 9662) granting an increase of pension to George W. Brandon (with accompanying papers); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 9663) granting a pension to Mary G. McCarty (with accompanying papers); to the Committee on Pensions.

By Mr. TALIAFERRO:

A bill (S. 9664) granting an increase of pension to Jacob A. Davis (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 9665) to forbid the issuance of license for the sale or manufacture of intoxicating liquors or beverages within the limits of any State prohibiting the sale or manufacture thereof; to the Committee on the Judiciary.

A bill (S. 9666) granting an increase of pension to Perry C. Hughes; to the Committee on Pensions.

By Mr. DICK:

A bill (S. 9667) granting an increase of pension to George W. Pitner; to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 9668) for the relief of William Haycraft and others; to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. OWEN submitted an amendment providing that the funds arising from the sale of unallotted lands and other property belonging to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole Tribes of Indians, subject to the proper distribution under the law, shall be disposed of temporarily by the Secretary of the Interior in convenient national banks of the State of Oklahoma, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. LODGE submitted an amendment proposing to appropriate $10,000 to enable the President of the United States to extend an invitation to the Governments of foreign nations to send delegates to an international congress on social insurance, to discuss employers' liability negligence laws, etc., intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to appropriate $100,000 for improving the waterway between Jefferson, Tex., and Shreveport, La., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $50,000 for the construction of Lock and Dam No. 7 and lock and dam at White Rock Shoals, Trinity River, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 for improving Brazos River, Tex., from Old Washington to Waco, and for the construction of Lock and Dam No. 8, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $375,000 for the construction of a deep-water harbor or port within the entrance to Aransas Pass at Harbor Island, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

SITE FOR DISTRICT OF COLUMBIA REFORMATORY.

Mr. DU PONT. I ask unanimous consent to call up the resolution I submitted yesterday relating to a site for the District of Columbia reformatory.

The VICE PRESIDENT. The resolution will be read for information.

The Secretary read Senate resolution No. 310, submitted yesterday by Mr. DU PONT, as follows:

Resolved, That the Commissioners of the District of Columbia be, and they are hereby, directed to report to the Senate, as early as possible, whether they have selected a tract of land to be used as a site for the construction and erection of a reformatory, as authorized by the act approved March 3, 1909, entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1910, and for other purposes;" and if a tract of land for such site has been selected, to report to the Senate the location thereof, giving its approximate distance from the home and grave of George Washington, and also to report to the Senate the reasons for such selection.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. HALE. Mr. President, this is a matter very few of us know anything about. Before any action is taken I wish the Senator from Delaware would give us the facts about the whole situation.

Mr. DU PONT. I believe, Mr. President, I have the floor, and I was about doing so when the Senator from Maine rose.

Mr. HALE. The Senator need not consider what I said as an objection to his explaining the resolution.

Mr. DU PONT. I understand that.

Mr. President, pursuant to legislation passed at the last session, the Commissioners of the District of Columbia were required to select a site for the establishment of a house of refuge for the District in the limits of the State of Virginia. It appears that they have selected a locality in the immediate neighborhood of Mount Vernon, which has given rise to a protest from the Mount Vernon Ladies' Association, which was embodied in a memorial which I presented yesterday.

It seems to me that from some points of view, to say the least, the location selected by the commissioners is most unfortunate and inappropriate. I believe that public opinion throughout the country would be shocked by the establishment of a permanent abode of criminals in the immediate neighborhood of the home and of the last resting place of George Washington, and in very close proximity to other points of historic interest in the State of Virginia.

Under the circumstances, I believe Congress ought to have the information called for in the resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent, and agreed to.

LAWS OF THE PHILIPPINES.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on the Philippines and ordered to be printed:

To the Senate and House of Representatives:

As required by section 86 of the act of Congress approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," I transmit herewith a volume containing the laws enacted at a special session of the Second Philippine Legislature, and certain laws enacted by the Philippine Commission.

WM. H. TAFT.

THE WHITE HOUSE, *December 17, 1910.*

RULE REGARDING TARIFF LEGISLATION.

Mr. BURNHAM. I ask that Senate bill 7971, commonly known as the omnibus claims bill, be laid before the Senate.

Mr. LODGE. Yesterday the joint resolution introduced by the Senator from Iowa [Mr. CUMMINS], the question on which is one of reference, was allowed to go over, and I supposed it was coming up this morning for disposition and reference. I think it comes over as morning business, does it not?

The VICE PRESIDENT. It comes over to be called up.

Mr. CUMMINS. It was my understanding that it was to be called up this morning for further discussion, and if it is necessary that a formal suggestion of that kind be made, I ask that the joint resolution be now taken up, the pending question being on the motion to refer.

Mr. BURNHAM. Notice has been given, and it was the understanding, I think, that subject to any appropriation bills the omnibus claims bill should be proceeded with this morning.

The VICE PRESIDENT. The Chair does not understand that an order to that effect has been entered, although the Chair may be in error about it.

Mr. BURNHAM. I think it appears on the calendar.

The VICE PRESIDENT. The Senator from New Hampshire simply gave notice that he would make such a request. No order has been entered.

Mr. BURNHAM. No order to that effect has been made?

The VICE PRESIDENT. No order has been entered to that effect. The Senator from Iowa calls up Senate joint resolution 127, which is on the table, and it is in order at this time. The joint resolution will be stated by title.

The SECRETARY. A joint resolution (S. J. Res. 127) to limit the right of amendment to bills introduced to amend an act approved August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes."

The VICE PRESIDENT. The pending question is on the motion of the Senator from Iowa to refer the joint resolution to the Committee on Rules.

Mr. LODGE. Mr. President, before the joint resolution is referred I desire to say a few words in regard to the measure itself, because I suppose it is not certain how soon it may be reported from that committee, and in a short session, as we are all aware, there is a great pressure of business as we draw near to the 4th of March.

With the purpose of the joint resolution, as I understand it, I am in entire accord. I should differ with the Senator from Iowa as to the method of attaining his object. I do not think any joint resolution is necessary.

I do not care to discuss the legal and constitutional aspects of settling the procedure of the Houses by law, for it seems to me that we can reach the purpose of the joint resolution in a much simpler manner. The House now is in the habit of reporting special rules which cut off all amendments from the subject to be laid before the House under the rule. The power of unlimited amendment to all bills except appropriation bills occurs in the Senate, and if we desire to limit the opportunity for amendment on any phase of a tariff measure an alteration in the rules of the Senate would entirely meet the difficulty, because the House now has the practice and can do it at any time.

There can be no question, I think, Mr. President, as to the absolute authority of each House to settle its own procedure. The House of Representatives, as I have already said, brings in rules constantly cutting off all amendments from the subject of the rule. In the Senate we have limited in many directions the right of amendment and the latitude of amendment to appropriation bills, and, of course, we can exercise that same authority in regard to bills of any other character.

But the purpose of this joint resolution, as I understand it, is to make it possible for a subject, an item, a schedule, a paragraph of a tariff bill to be presented to this body or to the other House without the opportunity to hang upon it an entire revision of the 2,000 and more items of the tariff. I have seen repeatedly during my service here occasions arise when it was extremely desirable that some correction or change should be made in a single clause in a tariff law. I remember there was an error in the Dingley law, either a clerical error or an error of transcription of quite a serious character, and it was practically impossible to deal with it because we were met at once with the objection that, if it was brought into the Senate, amendments would be offered to the entire tariff.

I know that some years ago I was extremely anxious to have in the tariff law the maximum and minimum provision which is now embodied in the present tariff. I introduced a bill to that effect. I discussed it with the Senator from Rhode Island [Mr. ALDRICH], who was as anxious as I to have that provision embodied in our law as very necessary for our own protection to prevent discrimination against us in foreign markets. Nothing was, however, done about it because it was said that if that were presented here an entire tariff revision would be hung upon it. Of course, it may be urged that it is very easy for a majority to vote down all amendments, but when you consider the range of amendments that could be offered to some simple proposition like those I have suggested, it amounts to making it impossible to present any amendment to a tariff bill or a tariff law unless you are prepared to open the whole subject.

A limitation on the right of amendment gives an opportunity, if the majority of either body so decides, to present a single subject or a single item, and not expose it to unlimited amendment. It has seemed to me for many years, Mr. President, that it was unnecessarily shackling the powers of Congress to have it in a position on one great law where it could never make an amendment to that law unless it went through the entire law from beginning to end. It has always seemed to me that that was an absurdity in procedure.

As to the larger necessity, Mr. President, of this change of rule as connected with the tariff commission, I took this subject up at the beginning of the last campaign, on the 28th of June, and in the first speech I made in my own State I discussed very fully the need of a tariff commission. I should like to see a tariff commission of a permanent character, small in numbers, because that is more efficient in work; independent and expert in character, which can furnish the President and Congress with facts as to the cost of production at home and abroad. All that is desired from such a commission is that it should give us the facts on which all intelligent tariff legislation must be based. I do not in the least underrate the labors of the Committee on Ways and Means or of the Committee on Finance, or of the Members of both Houses on every tariff that is presented; nor do I underrate the great knowledge possessed by certain Members of both branches in regard to the tariff; but it is utterly impossible for any body of men within a year or within a few months to master all the subjects which a tariff presents.

Moreover, when the committees bring in their conclusions in the form of rates of duty they have no authority which is universally recognized as disinterested, impartial, and trustworthy to which they can refer. They may bring in authority for the changes they make which is entirely convincing to them, but it does not carry the conviction which such a board as I have described would undoubtedly carry.

Of course, in urging a tariff commission I have no idea of transferring to them any legislative power, even if that were possible under the Constitution; ours is the responsibility, and ours is the power to legislate; but we now can not get the information necessary for a tariff in such a form and from such sources as to carry conviction to Congress itself, and, still less, to the country.

The costs of production abroad and at home are the bases upon which rates of duty must be founded. I think it is essential that we should have some means of getting that information other than those which we possess ourselves.

I have been familiar with the tariff hearings before committees of Congress for many years. We first hear those who represent the industries; second, those who represent the importers; and, third, those who want their raw material reduced or made free without regard to the fact that what is their raw material may very probably be, and indeed must be, some other man's finished product.

From those sources we get a great deal of very valuable information; much of it, undoubtedly, is accurate and true; but it is impossible to dissociate information gathered from sources of that kind from personal interest. It is more or less colored

either in the direction of exaggerating or of minimizing the danger of foreign competition. Those sources of information by their very character seem to me to point to the crying need of some Government board of independent experts, who can gather this information from official and unquestioned sources at home and abroad and then present it to us without bias on their part. There is nothing very novel in the suggestion. It is a system which is in practice in the great commercial countries of Europe having a protective tariff. It is the way the work is done in Germany, where they are as thorough in regard to all economic matters as they are in every other direction; it is the case in France; and the information gathered by these expert boards is all submitted to the Chambers or to the Reichstag as it would be submitted here for the action of the legislative body, and the legislative body may then take any action they please upon it.

To make action based on such reports effective, it is impossible to wait until a commission brings in a report on every item of the tariff. That was tried in 1883, but the commission did no better and not so well as the committees of the Houses; and Congress rejected their report and made a bill of their own. The commission could not get up a bill embracing an entire revision in a few months or even in a year or two; but if you will allow them to take it up subject by subject—I say by subjects in preference to schedules, because some of the schedules are so intertwined that it is impossible to dissociate one schedule from another—but if they are allowed to take it up subject by subject or item by item and make report as they get information, then it would be possible for Congress to deal with those subjects as they come along if they had proper provisions for doing so in their procedure.

Mr. President, during my experience in Congress I have witnessed five tariff revisions. In the last one I took more part in the work than I had in previous revisions because I was a member of the Finance Committee. I have seen just how the work was done. Those revisions were in themselves an unmitigated injury to business. I am not speaking now of the direction in which they went or the policy they pursued; but complete wholesale revisions of the tariff when they have occurred have been an unmitigated injury in a greater or less degree to the industries of the country, and, therefore, to all our business conditions, and they have also been ruinous politically to the party that undertook them.

During the first Congress in which I served as a Member of the other House, Mr. Cleveland sent in his famous one-subject message. On that message was based the Mills bill. That bill occupied the House in discussion until October, and as a result Mr. Cleveland and his party were defeated in the elections of that year, 1888. Then the Republican Party came into power and they met and passed the McKinley bill, which I think became a law in September. Congress was in session until September, as I recall. The result of that legislation was an overwhelming Republican defeat in the elections of 1890. Then the Democratic Party came into control of every branch of the Government, and they composed a tariff in 1894. It was a tariff that I do not think satisfied anybody. It did not satisfy the President and it did not satisfy the country. It was what was known as the Wilson-Gorman bill. At all events, at the next congressional election in 1894, before the silver question had become a sharp and decisive issue, the Democratic Party was swept out of the House of Representatives as completely as we had been swept out in 1890.

We all remember what business conditions had come to be. I am far from suggesting that it was all owing to the tariff legislation, because I think the agitation in regard to silver caused great trouble and unrest, but the industrial condition was a very important factor in the panic and disaster of those years. Within six years we had revised the tariff three times. The result was that there was not an industry in the country which knew what was going to happen to it from month to month. We had succeeded by those rapid revisions in shaking the entire industrial fabric so that nobody knew how he could proceed. Men did not dare to go on and make contracts for the future; they did not dare to enlarge; they were in a condition of suspense and uncertainty, and suspense and uncertainty are the worst possible conditions for business.

After the election of 1894, as everyone knows, the silver question was injected into our politics, and, for the time being, forced other questions somewhat into the background. It has always been my belief that the silver question, thus pushed into the forefront of the political battle, made the chances of the Democratic Party far better politically than they would have been if they had been left on the tariff issue alone. But, however that may be, as it was, they lost the country in 1896 as they had lost the lower House in the election of 1894, after the enactment of their tariff law of that year.

Then the Republican Party came in again. They passed the Dingley Act of 1897. In my opinion, under the conditions of that day, it was an extremely good tariff, scientifically made, and it was certainly very successful. We did not lose the country in the elections of 1898, as had happened following the three previous revisions, but our majority in the House was much reduced, despite the fact that war with Spain had intervened, which completely overshadowed any domestic issue like the tariff. Even then our margin in the House was reduced, but after what the country had been through from 1888 to 1896 there was a general disposition to let the tariff rest.

I believe thoroughly, as I have already said, that it was a very excellent tariff, well adapted to the conditions of that day, but the great prosperity which ensued during those years, which lasted down to 1907 and which is beyond dispute, was not alone due to the wise provisions of the Dingley bill, but to the fact that we had a period of tariff stability, and tariff stability is the best gift that any tariff law can give to the country. Nothing is so bad for business as suspense and uncertainty. Nothing is so valuable as a reasonable certainty in regard to the future, so far as legislation is concerned. We had 10 years of stable tariff conditions, and that, as well as the wise provisions of the Dingley law, I think was the great cause of our prosperity, so far as law and revenue provisions affect prosperity, and they affect it very greatly. We now have had another revision. We have not benefited business by the agitation, and we have had the usual result to the party which has undertaken it.

It has been borne in upon me, Mr. President, by those experiences and by what has happened that the time has come when we should no longer lag behind every other great commercial nation of the world in our methods of dealing with the rates of duty in our revenue laws. It seems to me that the first and most sensible policy to be pursued by this Government—I do not care which party is in control or which theory of tariff rates prevail—and in the interests of the business of the country is to avoid rapid repetitions of wholesale tariff revisions. For that reason, it seems to me, we ought to be able to deal with anything in the tariff that is demonstrated to be wrong without shaking from one end to the other every industry in the country, many of which exist under tariff conditions which are incontestably right.

I am a protectionist, a thorough protectionist, Mr. President. I believe in the policy as deeply as I can believe in any economic policy. I am as strongly for it now as I have ever been in my life. But as a protectionist I believe that disinterested investigation by any board of scientific experts, who will honestly give the facts as to the costs of production, will absolutely sustain the policy of protection. If it can not be sustained on the facts honestly given, then it can not stand, and no system can stand. If the reports of the facts show that a duty is too low, it ought to be raised. If the facts gathered, as I have suggested, show that the duty is too high, it ought to be lowered.

I believe that the measure of protection which was stated in the Republican platform of 1908 and which was stated in almost the same terms by a Democratic platform of some years before, is a proper measure of protection—the difference in the costs of production at home and abroad, as nearly as they can be ascertained, with a reasonable allowance for a margin of profit to the American producer.

I think, Mr. President, that the only way to ascertain the difference in costs of production is by a tariff commission, as I have suggested. You will never get evidence furnished to committees of Congress which will carry conviction to the country at large or to all Members of Congress. You will get no indisputable facts. I think you can get those facts in the way I have suggested. At all events, Mr. President, an alteration of the rules which would enable us to try it, the establishment of a permanent tariff commission which will enable us to try a system which other countries have found efficient, certainly can do no harm, and, I believe, will open the road to a most important reform in our methods of dealing with duties which affect the standing and the operation of every industry in the country.

It is for these reasons, Mr. President, and from the experience which I have had in five revisions, especially from my experience of the last, that I have advocated a commission in every speech I have made on the tariff during the past six months, and that I am in accord with the President in his suggestion that we should have a permanent tariff commission and make the experiment of dealing with tariff changes when they are shown to be necessary, by schedules or items or subjects, and not by precipitating wholesale and violent revisions of the entire law.

I wished, Mr. President, before the joint resolution is sent to the Committee on Rules at least to explain some passing remarks which I made in the running debate the other day and to repeat that I am entirely in accord with the purpose of the joint resolution, as I understand it, although, as the Senator from Iowa is aware, I do not think this is the best way of reaching the object we desire to attain, because I think it involves another House, involves a law, and because I believe we can meet the difficulty by a simple alteration in our own procedure.

Mr. HEYBURN. Mr. President, I should regret conditions that compelled the closing of this discussion this morning. I regard it as perhaps the most important question that will present itself to the Senate at this session. It is the last days of the week, and I am obliged to leave the city at 3 o'clock to keep an engagement made some weeks since. But there is no engagement so pressing that I would not make it wait while I performed what I consider to be a duty in regard to this matter.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. Certainly.

Mr. CUMMINS. I rise simply to say that it had been my purpose, after such Senators as may desire to speak upon the joint resolution this morning have done so, to ask that it lie over until another time, because I know that there are Senators who want to speak upon the subject who are not prepared to go on this morning.

Mr. HEYBURN. Mr. President, I am much gratified at the statement of the Senator, and I will not attempt to-day to enter at any length upon the discussion of this question. I hope to give it a more careful and extended consideration before final action is taken upon the matter of reference.

However, having the attention of the Chair for the moment, I desire to make some suggestions just briefly that they may rest in the minds of Senators who hear them as food for thought between now and the time when we come to the final, responsible consideration of this question.

The protective-tariff policy of the Republican Party partakes more nearly of the nature of an international question than is generally accredited to it. It is the policy of the Government, irrespective of party, with relation to the admission of the other nations of the earth into our markets. It is a policy. It is not a temporary expedient. It is not a question of striving for personal or local advantage as against other of our own people, but it is a question between all the people of the United States and the other nations of the earth. That is the Republican principle of protection as it originally was adopted and accepted, and it can not be changed by platforms, nor can it be construed away by infinite division.

Mr. President, I wish merely to suggest a few of these ideas this morning in order that as the discussion of this question may proceed some notice of the position which I shall elaborate and maintain may be in the minds of Senators.

Mr. President, if we are either by our own act or through a commission to undertake the determination of the exact line that shall mark the difference between the cost of production abroad and at home, and a reasonable profit in addition to that, then we are face to face with the proposition of legislating what shall be a man's profit in his private business. If we are going to place a limitation upon his profit, would it not be as consistent to place a guaranty behind it that he should make that profit? Are we going to make a one-sided guaranty? We say, "You shall not make more than so much;" but we do not undertake to say that "you shall make any profit." We have to consider that question.

I have no sympathy whatever with legislation that undertakes to fix the profit which our own people may make in dealing between themselves. I have no patience with legislation that undertakes to split hairs and draw fine lines as to the advantages which a foreigner may have in our markets—markets belonging to the American people. We want no fine discriminations; we want no expert lead-pencil men to determine just exactly where that line shall be. The merchant knows it; the business man knows it when he casts up his accounts, and nobody knows it before, and we have no right to subject him to the chances.

The distinguished Senator from Massachusetts [Mr. LODGE] has suggested, and I made a note of it, that if results shall show that a tariff rate is too low, it ought to be raised. When the results have shown it, the merchant is bankrupt. The raising of the tariff might benefit his heirs, executors, or assigns. It would not benefit him. The harvest would have been ended so far as he is concerned. That is not the rule of government. Government is not to deal with yesterday, but it must deal with to-day and to-morrow, and the to-morrows that follow, and no legislation can be accounted wise which undertakes to devote itself merely to the corrections of the mistakes that were made yesterday. Let us bear that in mind—that after the mistake is made it is too late, so far as the parties interested are concerned.

Mr. President, as I said, I have no intention of entering upon this question at length except to make these few suggestions. We are not concerned as to the methods by which other governments, differing in character and purpose and methods, deal with these questions. There the people are governed by somebody. Here the people govern themselves. There the question of prosperity finds its focus on a different branch of the political organization than in this country. We are here representing every part of the United States, and we want the principle to be of such uniform application that one part of the country will receive corresponding benefits with those received by all other parts of the country.

If you ever open the doors to the consideration of this question of single schedules, have you thought where it would land us? Take, for instance, the one that the papers are talking about—the wool schedule. If I may be pardoned for being somewhat geographical in presenting this thought, the single State in which I live produces nearly six times as much wool as all of the New England States. We produce several times more wool than New England and the Middle States combined. That is raw material. The manufacturers want it. They can take the duty off of it. There are three States lying side by side out there which produced over 65,000,000 pounds of wool this year, and is that wool to compete in the markets of foreign countries or in our own country with the wool of foreign countries under a fine-spun theory of a bare pittance of profit?

That has not been the policy of the Republican Party nor of its great ancestor, the Whig Party. Our own people are entitled to make whatever the laws of competition will enable them to make in dealing in this market. We need not call in the Hessians in order that our own raw-material producers and manufacturers may treat each other fairly. We need not need the threat "if you do not agree among yourselves we will call in the Germans or the French or any other people." The American people understand the rules of competition, the rules of supply and demand well enough to insure to all the people fair treatment.

The whole discussion of this question has centered upon what some foreign people may do with our market; not how they shall be kept, but how they shall be let in. That is the vice, if I may so term it, of the principles that are being urged upon us in support of this demand for a tariff commission. The tariff commission of this country should be the markets of this country. The tariff commission of this country should be the people of the country in their daily business functions. They will settle it on the rule and standard of competition.

But just as soon as some one wants to reap an especial advantage because of local environment or condition we are met with the threat of foreign invasion into our markets: "If you do not agree to a certain profit as a compensation for your product and services, we will not deal with you, but we will deal with Germany;" and then they go out and make a private contract with Germany that "we will let your goods in just low enough to destroy this other man or else make him do our bidding." That is not the principle upon which this Government should be conducted.

Mr. President, as I said, this subject is as large as the Government itself. It is as large as the prosperity of the people. It involves more than a hundred such measures as the claims bill, and I speak with no disrespect of it. That is a few dollars of charity to some persons here and there. But this measure should be discussed now for more reasons than one. It should be discussed to allay the apprehension in this country that we are going to commence tariff tinkering. It should be discussed and settled in order that the people may know that business conditions are not going to be disturbed, and it should be settled at once. It should be settled by voting down the joint resolution which proposes that the Senate of the United States shall be permitted to whittle away the prosperity of one section or more than one section of this country in the interest of other sections.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. Certainly.

Mr. CUMMINS. Does the Senator from Idaho recognize that there ought to be any limit whatever to duties; or, in other words, does he recognize that a duty may be too high?

Mr. HEYBURN. For what purpose? I can not answer the question until I know for what purpose.

Mr. CUMMINS. I am asking the Senator from Idaho whether he recognizes that the duty on any commodity may be too high.

Mr. HEYBURN. Too high for what? I can not answer the question unless it is a complete question. Too high for what?

Mr. CUMMINS. Too high to suit the ideas of a protectionist like the Senator from Idaho. I know of no other way to describe it.

Mr. HEYBURN. I will not criticize the Senator's remark. It is not a very statesmanlike way of stating it, because it is rather personal. But I can answer the principle involved in the Senator's question. I would make it so high that a man would not have to have a microscope in order to find it; that he would be in no danger of running against it in the dark; that he would be at liberty to conduct his own business with his neighbors or his fellow American citizens without the threat that "if you do not yield to me I will call in the Hessians." It should be that high, all right.

There was a time when the Republicans who constituted the Republican Party knew how to make a tariff law. There was a time when they knew better than to make such planks as were written in the last platform. Go back to 1884, go back to 1888, go back to the old planks in the Republican platform that speak, "We are in favor unalterably of the Republican doctrine of a protective tariff that shall preserve to the American people the markets for their products." There were no petty limitations. To do whatever was necessary was the measure of the guaranty.

Mr. CUMMINS. Mr. President——

Mr. HEYBURN. No tariff commission was to get in between the man who owned the goods and the man who would buy them to say what profit he should make.

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. HEYBURN. Certainly.

Mr. CUMMINS. I gather from the answer the Senator from Idaho has just made that he believes that duties in all cases should be so high as to absolutely prohibit importations.

Mr. HEYBURN. No; I do not. I do not think that that is a logical conclusion to be drawn from anything I have said. But they should be so high that there would be no inducement whatever to buy foreign goods the equivalents of which were produced in this country. There should be no temptation to American citizens to do it.

Mr. CUMMINS. When the Senator says we are in this day trying to call in the Hessians, I assume he means we are trying to enlarge importations, and that is the way he has of describing importations.

Mr. HEYBURN. That is not an expression for which I am responsible; it is an old one. It simply means just what the imprudent head of a household means when the child is told, "If you do not behave yourself, the bogey man will catch you."

Mr. CUMMINS. But I want to apply it to the active forces of man. The Senator from Idaho, if he means anything by that statement, means that the duty on commodities should be so high that importations would not come into the United States.

Mr. HEYBURN. Oh, no.

Mr. CUMMINS. And that whatever is necessary to exclude all importations is the proper measure of a duty.

Mr. HEYBURN. No. Importations will come into the United States, because of the fact that there are a great many of the commodities in commerce that are not produced in this country; and then there are others that will come in because of the very small margin of profit in the enforced market behind them.

Mr. CUMMINS. Mr. President——

Mr. HEYBURN. Wait a moment, until I finish that thought. The fact is based upon the history of the past, that a tariff which protects the people best tempts the foreign importer most.

Mr. CUMMINS. I assume the Senator was speaking of wool as a concrete illustration. The duty on wool is 11 cents a pound, or upon that kind of wool which the Senator from Idaho has in his mind, I think. Now, notwithstanding the duty of 11 cents a pound on wool, concerning which I do not complain, there is still wool imported into the United States. There are still Hessians invading our markets in that commodity.

Mr. HEYBURN. But they are paying for it.

Mr. CUMMINS. Precisely. Does the Senator from Idaho think that the duty on wool ought to be raised so high that there could be no wool imported into the United States?

Mr. HEYBURN. No; because we do not produce enough for our own consumption.

Mr. CUMMINS. Then, of course, the Senator from Idaho must recognize some standard that will measure a proper duty. What is that standard?

Mr. HEYBURN. The market, and the market of the whole country, as affecting a given commodity and not the statement of some person as to what the market ought to be or will be in the future.

Mr. CUMMINS. As I understand the Senator from Idaho, then, he now asserts that there ought to be no importations——

Mr. HEYBURN. Oh, no.

Mr. CUMMINS. Until the American supply has been entirely exhausted.

Mr. HEYBURN. No; not necessarily at all. The American supply goes to the American market at a price determined between the buyer and the seller, which is based largely upon the consumption of the country. The market is reenforced at a higher rate by the wool that is purchased from other countries, and it is never on an equal basis in our market with our own product.

Mr. CUMMINS. The conclusion, therefore, would be that the duty ought to be not stationary, but changeable from day to day, according to the market.

Mr. HEYBURN. Not at all. We always know where the maximum tide is. I would put protection above high tide. That is the Republican doctrine of 100 years. I would let the intermediate stages of the tide be absorbed in the general effect upon the market.

Now, Mr. President, I am going to defer any further remarks, relying upon the statement that the matter will not be sent to the committee until after we have had time to discuss it.

Mr. CUMMINS. I do not know of any other Senator who desires to speak this morning, and, with the consent of the Senate, I will ask that the motion to send the joint resolution to a committee lie over until a further day.

The PRESIDING OFFICER. Without objection, it will be so ordered.

OMNIBUS CLAIMS BILL.

Mr. BURNHAM. I desire to call up the omnibus claims bill.

The PRESIDING OFFICER. The Senator from New Hampshire moves that the Senate proceed to the consideration of the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas [Mr. BRISTOW] to recommit the bill to the Committee on Claims with instructions to eliminate all claims for insurance and premiums, on which question the Senator from Kansas demanded the yeas and nays. Is there a second to the demand?

Mr. BACON. I should like to hear what those instructions are.

The PRESIDING OFFICER. With instructions to eliminate all claims for insurance and premiums. Upon that question the Senator from Kansas asked for the yeas and nays. The Chair was asking if there was a second to the demand for the yeas and nays.

The yeas and nays were demanded.

Mr. BRISTOW. Mr. President, I desire simply to state that this would recommit the bill with instructions to strike out all allowances that are made for the payment of the premiums, and also the allowance for insurance, upon the theory that the insurance companies sold their insurance and received the premiums they asked for exactly the risk which they were assuming when the loss occurred. They paid the loss the same as any other insurance company would pay, and the insured bought the insurance in the same way that any insurer buys the insurance; he paid for what he got and received the money when the loss occurred. There is no occasion for the Government to go into that business and pay both parties all that they lost or all they paid out, because it was simply a business transaction on both sides.

Mr. BACON. I should like to inquire of the Senator from Kansas whether the previous motion upon which we voted to strike out was limited to the particular provision which he now seeks to have controlled by instructions, or whether it was broader.

Mr. BRISTOW. No; the motion to strike out referred solely to the French spoliation claims.

Mr. BACON. It included the spoliation claims?

Mr. BRISTOW. It included all of them.

Mr. BACON. I understand the present motion to be more limited.

Mr. BRISTOW. It is more limited.

Mr. BACON. The reason why I make the inquiry is because the Senate voted upon the general proposition to strike out all spoliation claims and it failed upon a tie vote. I would suggest to the Senator from Kansas that as this is a different proposition possibly it would be better to have the Senate vote upon the direct question rather than couple it with a motion to recommit. In other words, the Senator would be in order now to move to strike out the very provisions which he seeks to have stricken out under a proposition to recommit with instructions. I would therefore suggest to the Senator, in the interest of time, in order that we may proceed with the bill, that the motion be changed by him from a motion to recommit with instructions to a motion to strike out the particular provision.

Mr. BRISTOW. I appreciate the suggestion of the Senator from Georgia. The reason why I made the motion as I did was because I did not have prepared an amendment to strike out, which would necessitate going through the bill and striking out by lines definitely. I can take up the bill and go through it, but it will take some time to prepare such an amendment. That is the only reason.

Mr. BACON. I do not press the suggestion in view of the statement of the Senator.

The PRESIDING OFFICER. The Chair would state that in the opinion of the Chair it would not be in order, the yeas and nays having been ordered on the pending question.

Mr. BACON. There had been no name called.

The PRESIDING OFFICER. There had been no name called, but the yeas and nays were ordered. The question is on the motion of the Senator from Kansas to recommit with instructions. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], who is absent. I transfer my pair to the senior Senator from Rhode Island [Mr. ALDRICH] and vote "nay."

Mr. FLINT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON] and therefore withhold my vote.

Mr. PAYNTER (when Mr. JOHNSTON'S name was called). The Senator from Alabama [Mr. JOHNSTON] is ill in bed and unable to be present. I have been requested to make this announcement.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. He is necessarily absent from the Chamber, and I therefore withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. As he is absent, I withhold my vote.

Mr. PURCELL (when his name was called). I am paired with the junior Senator from New Jersey [Mr. BRIGGS]. If he were present, I would vote "yea."

Mr. RAYNER (when his name was called). I am paired with the junior Senator from Arkansas [Mr. DAVIS]. I transfer that pair to the senior Senator from Pennsylvania [Mr. PENROSE] and vote "nay."

Mr. SHIVELY (when his name was called). I am paired with the senior Senator from New Hampshire [Mr. GALLINGER], who is absent. Were he present, he would vote "nay" and I would vote "yea."

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. In his absence, I will withhold my vote. If he were present, I would vote "nay."

Mr. WARNER (when Mr. STONE'S name was called). The announcement has not been heretofore made that my colleague [Mr. STONE] is detained from the Chamber by reason of sickness, and has been since the commencement of the session.

Mr. BRADLEY (when Mr. TAYLOR'S name was called). I should have made an explanation. I am paired with the junior Senator from Tennessee [Mr. TAYLOR], but knowing that he is opposed to a recommittal of the bill, I have voted.

The roll call was concluded.

Mr. DU PONT. I wish to announce that my colleague [Mr. RICHARDSON] is paired with the senior Senator from Tennessee [Mr. FRAZIER]. If my colleague were present and at liberty to vote, he would vote "nay."

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE], who is absent on account of illness, and I therefore withhold my vote.

Mr. BRANDEGEE. I wish to announce that my colleague [Mr. BULKELEY] is paired for the day with the junior Senator from Alabama [Mr. BANKHEAD]. I shall make no further announcement of the pair during the day.

Mr. CHAMBERLAIN. I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER], but I understand that if he were here he would vote "nay," and I feel at liberty to vote. I vote "nay."

Mr. SIMMONS. I have just received a message from the junior Senator from Minnesota [Mr. CLAPP] releasing me from my pair. I vote "nay."

Mr. FLETCHER. I am requested to announce that the Senator from Tennessee [Mr. FRAZIER] is paired with the Senator from Delaware [Mr. RICHARDSON], and also that the Senator from South Carolina [Mr. SMITH] and the Senator from New York [Mr. ROOT] are paired for the day.

Mr. BACON (after having voted in the affirmative). I will inquire whether the junior Senator from Maine [Mr. FRYE] has voted.

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. BACON. I am paired with that Senator, and I therefore withdraw my vote.

Mr. CLARK of Wyoming. I transfer my pair with the Senator from Missouri [Mr. STONE] to the Senator from New York [Mr. DEPEW], and vote "nay."

The result was announced—yeas 16, nays 30, as follows:

YEAS—16.

Beveridge	Burkett	Curtis	Percy
Borah	Burton	Dixon	Smith, Mich.
Bristow	Clarke, Ark.	Jones	Terrell
Brown	Cummins	La Follette	Young

NAYS—30.

Bradley	Dillingham	McCumber	Simmons
Brandegee	du Pont	Martin	Smith, Md.
Burnham	Fletcher	Money	Swanson
Chamberlain	Gamble	Nixon	Taliaferro
Clark, Wyo.	Hale	Page	Thornton
Crane	Kean	Piles	Warner
Crawford	Lodge	Rayner	
Dick	Lorimer	Scott	

NOT VOTING—46.

Aldrich	Davis	Johnston	Shively
Bacon	Depew	Nelson	Smith, S. C.
Bailey	Elkins	Newlands	Smoot
Bankhead	Flint	Oliver	Stephenson
Bourne	Foster	Overman	Stone
Briggs	Frazier	Owen	Sutherland
Bulkeley	Frye	Paynter	Taylor
Burrows	Gallinger	Penrose	Tillman
Carter	Gore	Perkins	Warren
Clapp	Guggenheim	Purcell	Wetmore
Culberson	Heyburn	Richardson	
Cullom	Hughes	Root	

The PRESIDING OFFICER. No quorum has voted.

Mr. LODGE. Then there is nothing to do, Mr. President, except to have a roll call.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cummins	La Follette	Scott
Borah	Curtis	Lodge	Shively
Bradley	Dick	Lorimer	Simmons
Brandegee	Dillingham	McCumber	Smith, Md.
Bristow	Dixon	Martin	Smith, Mich.
Brown	du Pont	Money	Stephenson
Burnham	Fletcher	Page	Swanson
Burton	Flint	Paynter	Taliaferro
Chamberlain	Gamble	Percy	Terrell
Clark, Wyo.	Hale	Perkins	Thornton
Clarke, Ark.	Heyburn	Piles	Warner
Crane	Jones	Purcell	
Crawford	Kean	Rayner	

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum is present.

Mr. BRISTOW. May I now ask a parliamentary question?

The PRESIDING OFFICER. Certainly.

Mr. BRISTOW. Is it now necessary to again put the question?

The PRESIDING OFFICER. It is necessary to again call the roll.

Mr. LODGE. Nothing else can be done.

Mr. BRISTOW. Can I withdraw the motion by consent of the Senate? I ask that because it is plainly disclosed——

The PRESIDING OFFICER. Of course anything which the Senate pleases can be done by unanimous consent, but the request is out of order at the present moment.

Mr. BRISTOW. It is plainly disclosed that the majority of the Senate do not want to recommit the bill. I therefore ask unanimous consent to withdraw the motion to recommit.

The PRESIDING OFFICER. The Chair is under the impression that the motion can not be withdrawn.

Mr. HALE. Except by unanimous consent.

Mr. RAYNER. The Senator has asked unanimous consent.

Mr. BRISTOW. I ask unanimous consent to withdraw the motion to recommit.

The PRESIDING OFFICER. The Senator from Kansas asks unanimous consent to withdraw his motion to recommit the bill. Is there objection? The Chair hears none, and the motion is withdrawn. The bill is still before the Senate as in Committee of the Whole and open to amendment.

Mr. BURTON. Mr. President, I desire to call up an amendment which was introduced yesterday, on page 127, in line 13, after the word "dollars," proposing to insert the words:

Provided, That not to exceed 40 per cent of this amount shall be paid as compensation for services in the prosecution of this claim.

I believe the Senator from North Dakota [Mr. MCCUMBER], who desired to be present, is here. I would suggest that an amendment has been added to the text immediately after the word "dollars." So the motion should be modified to the extent of stating that the words are to be inserted after the amendment already adopted; it is merely a matter of detail.

The PRESIDING OFFICER. The Senator from Ohio, as the Chair understands, moves to reconsider the vote by which——

Mr. BURTON. Not to reconsider the vote; but, in case this amendment is adopted, I will no doubt make a motion relating to the amendment already adopted.

Mr. LODGE. There is no objection to that amendment.

Mr. BURTON. There is an amendment already in the bill immediately after the word "dollars."

The PRESIDING OFFICER. The Chair is unable to understand the motion of the Senator from Ohio.

Mr. BURTON. I ask that the Secretary read the amendment already inserted.

The SECRETARY. On page 127, line 13, after the period following the word "dollars," the following proviso has heretofore been agreed to:

Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.

Mr. BURTON. Mr. President, I ask to have read by the Secretary a communication from certain of the heirs of Aaron Van Camp, in whose behalf this claim accrued.

The PRESIDING OFFICER. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

1354 OAK STREET NW.,
Washington, D. C., December 13, 1910.

Hon. T. E. BURTON,
United States Senate.

SIR: Referring to the item on page 127 of the claim bill reported to the Senate from the Committee on Claims, proposing to appropriate $38,750 to the legal representatives of the estate of Aaron Van Camp, we, the undersigned heirs of the late Aaron Van Camp, respectfully petition Congress to strike the item from the bill, unless a clause can be inserted providing that not to exceed 40 per cent of the amount appropriated shall be paid to persons as compensation for services in the prosecution of the claim. Dr. Aaron Van Camp, our grandfather, lived with us for some years prior to his death and thought of nothing but this claim, and would give to anyone who simply promised to aid him in having the claim allowed an interest in it. We now know that 65 per cent and $5,000 of the claim has been assigned, and how much more we are unable to state. In Dr. Van Camp's declining years we the undersigned worked to support him, and we are the ones who would have inherited the property wrongfully taken from him at the Navigators Islands. There are four heirs of the late Dr. Van Camp, the two undersigned, living in the District of Columbia; one living in Asheville, N. C.; and one in California. We have not the time now to have our brother living in North Carolina and the uncle in California join in this remonstrance, but we know that our views are shared by the others. In other words, unless the major part of the money it is proposed to appropriate can go to the heirs of the late Dr. Aaron Van Camp, it is the desire of the heirs that the item be stricken from the bill. On petition of one Edward E. Holman and C. W. Buttz, to whom the major part of the claim will go if allowed in its present shape, the Washington Loan & Trust Co. was designated as administrator of the estate of the late Aaron Van Camp; this was done without the knowledge or consent of the heirs of Dr. Van Camp. Until recently none of the heirs of Aaron Van Camp knew that the Washington Loan & Trust Co. had been designated as administrator of his estate. Dr. Van Camp left nothing save this claim. In all justice and equity, we respectfully request that the item be stricken from the bill, or a clause inserted providing that not more than 40 per cent of the amount appropriated shall be paid to persons as compensation for services in the prosecution of the claim. If necessary, we shall be obliged if you will read this communication in the Senate when the bill is under consideration.

LOUISE Z. LUDEWIG,
Granddaughter and Heir of Aaron Van Camp.
MARGUERITE B. JONES,
Granddaughter and Heir of Aaron Van Camp.

Subscribed and sworn to before me this 13th day of December, A. D. 1910.

[SEAL.] LEON M. ESTABROOK,
Notary Public.

Mr. BURTON. Mr. President, the proposition is made perfectly clear by the communication just read. The heirs ask that a proviso be inserted in the paragraph, on page 127 of the bill, granting $38,750 to the legal representatives of the estate of Aaron Van Camp, which proviso shall be to the effect that compensation for services shall be limited to 40 per cent; or, if that be not adopted, that the item be stricken from the bill.

I am actuated in the support of this amendment partly by the fact that one of the heirs and her husband are legal residents of the State of Ohio and they have appealed to me for support, but even more by the fact that it discloses a condition which pertains to many of these claims, namely, that they are prosecuted here in the interests of attorneys, who claim a very large share of the amount.

It appears that Mr. Van Camp, while this claim was being prosecuted, was an old man. He lived with and was supported by his heirs. According to this affidavit, his mental faculties had failed to the extent that whenever anyone came to him holding out a promise that he could do something for him he made an assignment. He made one assignment of 50 per cent, one of 10 per cent, one of 5 per cent, and an additional assignment of $5,000 of the amount, the result of which would be that a very small sum would go to the heirs.

The story is told of a client who once approached an attorney who proposed to take his case on a contingent fee. "What is a contingent fee?" asked the prospective client. "Why," said the lawyer, "it means that if I do not win, I do not get a thing. If I do win, you do not get anything." [Laughter.] That is about the form this claim has assumed. Under neither result is there any prospect for the heirs unless this amendment is adopted.

I think the Senate should adopt this amendment, not only for the protection of the heirs, but as an enunciation of the idea that we are not encouraging the prosecution of claims where the principal if not the sole beneficiaries are the attorneys who prosecute it.

Mr. MCCUMBER. Mr. President, I hope the Senate will pass no hasty judgment upon this ex parte statement of the Senator who has investigated the question for a part of a day as against the statements of attorneys who have paid all expenses, who have investigated and tried the case in court and out of court and before Congress for 50 years and who have in reality not only prosecuted the case for the decedent, but during the last years of the decedent's life were compelled to support him and to bury him without the assistance of these heirs who are to be injured by allowing attorneys a reasonable compensation for their services.

Mr. President, I desire to present this matter for a moment, because I myself have given it consideration off and on for more than 12 years, and I think I understand the matter as thoroughly as does the Senator from Ohio.

I have never been an advocate of paying an attorney an unreasonable fee; neither am I an advocate of allowing a person to accept attorneys' services for years without the payment of one solitary penny to assist him, and then to come in and say that a contract entered into by the attorney shall be nullified by Congress without the slightest consideration of the reasonableness of the fees that are mentioned in the contract.

Mr. President, what are the facts in this case? An agent of the Government acting, as is shown in the record, with the knowledge and assent, if not the consent of the Department of State and the Treasury Department, confiscated about $300,000 worth of goods of one Aaron Van Camp, of the District of Columbia, and of one Chapin, of West Virginia. It is needless for me to go into, and I will not take up the time of the Senate now in going over, the details of this great and rank injustice. It was simply a case that was worse than highway robbery.

Mr. Van Camp and Mr. Chapin sought to get their claim allowed. Action was brought in 1858 by the same attorneys in the circuit court of the District of Columbia, and a judgment was rendered against the agent who had committed the offense; a heavy judgment in both instances. A fieri facias was issued upon that judgment and returned unsatisfied.

Then these same attorneys entered into a contract with Aaron Van Camp, who was practically broken himself in his attempt to secure justice from the Government, for a contingent fee, they to pay the expenses and to follow the case through until they should secure the return of a portion, at least, of the value of the property of which he had been defrauded.

They then brought the case many times before Congress, and it was considered by both Houses. They then, in 1886, keeping the matter continuously alive, brought the action in the Court of Claims, and judgment was rendered; or, rather, it was submitted then only for findings of fact, and findings of fact were rendered in favor of Mr. Van Camp, but having no authority at that time to enter judgment, they rested upon the findings of fact only.

In those findings of fact the court admitted that they could grant judgment for only a small portion of that which was ac-

tually due according to their own ideas, because they had to exclude all evidence in the form of affidavits and because the witnesses to some of the proceedings and to the value of the property were then out of existence.

Still Congress failed to act upon it. It was then brought again and again before Congress, and a third time it went to the Court of Claims. It was again tried by the Court of Claims, and again a finding in accordance with the authority granted to that court was made.

During all of this time, let me state, not one of the heirs furnished one penny in the trial or in anything connected with this action. The attorneys were acting under a written contract, which I do not know that I have in my possession, but which I could get in a very few moments if it were necessary; one made by Aaron Van Camp when he was not so old as to be incapable of entering into a contract.

In 1903 the case was tried the third time, and prior to that time the old contract had been renewed by Aaron Van Camp.

Now, up until this time nothing had been done by the heirs, and, contrary to the assertion in the statement, there are on record in the probate office in this city letters announcing the application for the appointment of a representative that were sent to the then heirs at law—the children of Aaron Van Camp—and their receipts for the letters, and they are filed. And yet the grandchildren come on, or one of them does, and states that no notice whatever was given to the heirs, when a record of the notice is down in the court now and can be viewed now by anyone.

After a while Aaron Van Camp naturally became old and feeble. He had spent all his money, before these attorneys took charge of this case, in an attempt to get justice done him. He was then unable to support himself. These grasping, wicked attorneys loaned him money and took care of him in the last days of his life, and, as I am credibly informed, a Masonic body in this city buried him without one penny of expense to these heirs, these heirs who are now seeking to prevent these attorneys from receiving what the decedent contracted for in his lifetime.

Mr. President, is the Senator able to say that the services were not worth, say even 65 per cent of this $38,000; is not that the amount? There are some four or five attorneys who were engaged in the trial. Suppose they get even the 65 per cent, is it an excessive contingent fee for 50 years of service upon a claim of this kind? I know one of the attorneys in the firm that has been engaged in this matter, and I know that every year for the last 12 years they have consulted with me, advised with me, and were before the Committee on Claims in every one of those years prosecuting the case.

But, Mr. President, the statement is in error. The actual amount is 50 per cent, and the $5,000 that is to be paid, which the Senator from Ohio states was in addition to the 50 per cent, is to be paid out of the 50 per cent for the services of an additional attorney.

The party who is making the objection is a young man, a grandchild, who is employed in the Agricultural Department. He waited all of these years without the slightest objection to the contract fees. The children of Aaron Van Camp never objected to the contract fee. No one has ever uttered one single solitary sentence in objection to these fees until when, after a half a century of labor, the bill is about to be allowed, and then the young man, considering there are children and grandchildren and great-grandchildren, all of whom would have an interest in this, finds that the share that he would receive does not measure up to the amount he thinks he ought to have, and at this late day comes in and makes his objection against the fee being allowed.

This same young man appeared before another Senator only three days ago and asked him to intercede. I had some discussion with the Senator as to what would be a proper amendment, if it were thought that the fee was excessive, and so we agreed to the amendment which was adopted the other day, that before any fees were paid to any attorneys out of the sum that should be allowed those fees should be settled by the probate court. That is the proper tribunal to determine, first, whether a fee is excessive, and, second, whether the decedent was competent to enter into a contract for that fee.

I think there is no question about the authority of the probate court to determine that question, and with all the facts before the court it will be able to do absolute justice and will sustain any contract only when it is satisfied that the contract is fair and just. After this young man had himself agreed to this same amendment, he dreamed over it during the night and concluded the next morning that still his share in this would not be enough, and came in again and asked for a further amendment limiting it to 40 per cent.

Let me ask the Senator from Ohio in all good faith, is he prepared upon that ex parte statement to pass judgment upon the amount of fee that should be paid to the attorneys? I do not think he will claim that he is prepared. Is there any Senator absolutely prepared to pass judgment upon it? I think I am as well prepared, probably, from investigation of the case, as anyone in the Senate Chamber to-day, and I would not want to take it upon myself to say either that the attorney's claim was sufficient or insufficient.

I know the general power of the probate court to pass upon all claims that are to be paid out of the estate of a decedent. I am perfectly willing that the probate court shall pass judgment upon it. I have asked one of the attorneys, who is in practice here, as to the authority of the probate court here, and he says there is no question that the court has entire authority to pass upon the question of the amount and upon the question of the power and ability of the decedent to make the contract, whether he was in his right mind or otherwise.

But I do think it is rather unjust for this grandchild to come in after all of these years, without ever having paid one penny in the prosecution of the case, and protest against a contingent fee which was agreed upon, signed in writing by the decedent himself, and which was never questioned, either by the decedent or the decedent's children, and never by the children's children until this day, when the claim is liable to pass both Houses of Congress. I submit that it would be unjust for us to act upon such a protest.

The amendment which was agreed to by the same party who now asks this other amendment is the amendment which I will ask to have read now, so that the Senate will understand what it is.

The PRESIDING OFFICER. Does the Senator desire the original amendment read?

Mr. McCUMBER. I wish the original amendment read, not the latter one.

The SECRETARY. On page 127, line 13, after the word "dollars," following the proviso, it is agreed to insert:

Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.

Mr. McCUMBER. Senators, unless they should deny the authority of the probate court to pass on a question of that kind—and it is the usual authority allowed all probate or surrogate courts—will easily perceive that the heirs at law are all protected in the matter of the amount of the fees and the validity of any contract that has been made.

Now, the last contract was made in 1883. When did these heirs first ascertain that this contract was excessive? Did they take any interest in the matter whatever? Not to the extent of ever writing a line. And when they were asked if they would pay any of the expenses in the matter of securing a personal representative for the decedent, the only one who answered was the son, who said that he would pay none of the expenses. That has been practically all of the correspondence the attorneys have had from any of the heirs at law. They were willing to allow the case to go on, they were willing to allow the attorneys to expend their moneys and their energies under a contract until they were liable to bring their efforts to success, and then stepped in at the last moment to see if they could not block it in some way so that the attorneys would secure a less amount than they had contracted for.

The PRESIDING OFFICER. Will the Senator kindly suspend for a moment while the Chair lays before the Senate the unfinished business, the hour of 2 o'clock having arrived. It will be stated.

The SECRETARY. A bill (S. 6708) to amend the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce."

Mr. BURNHAM. On behalf of my colleague, I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. The Senator from New Hampshire asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from North Dakota will proceed.

Mr. McCUMBER. I am informed that the children of the decedent had full knowledge of the contract that was entered into by their father. That contract was entered into nearly 30 years ago, and not one of the children ever objected to the contract as being unjust or imperfect. No one of them ever claimed that the father was not competent to enter into the contract. Having the full knowledge for all these years, they allowed the work to go on and the attorneys to expend their services in this claim.

There are some five attorneys, I think, four of the firm and one from the outside. They are still engaged, and have been year after year, in bringing this matter before Congress. I submit that it is improper for the Senate to pass upon that judgment, and it is certainly unjust on the part of the persons most interested in the subject matter at this time to raise the question that the fees are excessive.

Mr. BURTON. Mr. President, I shall not detain the Senate with any very lengthy remarks.

Mr. SIMMONS. I ask the Senator from Ohio to yield to me for a moment.

Mr. BURTON. I understand that the Senator from North Carolina desires to make a statement, and I yield to him for that purpose.

Mr. SIMMONS. Mr. President, I think probably it is due the young gentleman who was one of the heirs by marriage of Mr. Van Camp, in view of the statement of the Senator from North Dakota, that I should make a statement in connection with the amendment which passed the Senate a few days ago.

The amendment was offered by myself. The young man to whom the Senator refers first requested me to offer the amendment which the Senator from Ohio offered. After conference with the Senator from North Dakota the amendment which was adopted was drafted. I submitted it to the young man. I advised him that, in my opinion as a lawyer, the probate court of this District would have power to determine the question of the legal capacity of Mr. Van Camp to make this contract, and that he could probably secure through the probate court the relief which he sought; that is, the probate court could set aside these assignments and fix a compensation based upon quantum meruit, in case it was found that Mr. Van Camp at the time he made this contract was non compos mentis. I then advised him to accept the amendment. I think probably in accepting the amendment he was very much influenced by the advice which I gave him.

The next morning I received a letter from him saying that the other heirs were not satisfied with the amendment and desired to insist upon the original amendment. I think it is proper for me to make this statement in reply to the Senator from North Dakota.

Mr. BURTON. May I ask the Senator from North Carolina a question? Do I not understand that the heir with whom the Senator consulted reluctantly accepted the amendment when it was first proposed?

Mr. SIMMONS. I think he accepted it upon my advice that he could secure the relief which he sought by this other amendment, providing he was able to show that Mr. Van Camp was not competent to make the contract.

Mr. BURTON. Mr. President, I shall detain the Senate only a very short time. I do not think it is necessary to be familiar with this claim for 12 or 13 years or to give more than a day to its consideration. It is an opportunity for the Senate by its vote to protect the heirs and the Government alike. Forty per cent is sufficient compensation for the prosecution of this or any other claim. As every lawyer and everyone who has to resort to a lawyer for advice knows, or should know, the lawyer must in a measure share the fortunes of his client. He can not say, when the client has a claim, "My compensation shall be irrespective of the recovery." If the recovery is large, he is entitled to generous compensation. If it is small or disappointing, he is entitled to much less compensation.

It appears that the aggregate of these claims was $300,000 belonging to Mr. Van Camp and to Mr. Chapin, presumably about two-thirds belonging to Mr. Van Camp. That would make the claim amount to $200,000, where the final recovery is only $38,750. Forty per cent of that is between $15,000 and $16,000. I submit that in view of the disappointing results of the litigation, however protracted it may have been, this amount is sufficient.

I do not want to go into a question of veracity between the constituent of the Senator from North Dakota, who I understand is one of the attorneys, and the heirs. The heirs say, however, that they supported Mr. Van Camp in his declining years.

I may state in this connection, if there is anything due to the attorneys for advances for the support of the decedent, that is not included within the purview of the proposed amendment. The proposed amendment of 40 per cent is merely for services. If there were loans of money, they can make a claim aside from that.

As I understood the Senator from North Dakota, he made two statements not entirely agreeing. One was to the effect that the attorneys paid the expenses for the burial of the decedent, and another that a Masonic lodge paid those expenses. If they paid the cost of his burial, they seem to have been in a singular copartnership with him, taking away the chance of what he had while he was alive and providing for the disposition of his remains after he was dead. If they are entitled to anything for advances, they can present that claim.

The heirs have also stated to me, or at least their representative has, that they knew of no such contract, that they knew of no proposition for the appointment of an administrator, until a very short time ago; and I think it is but fair to the Senate that their view of the case should be presented.

Mr. McCUMBER. Will the Senator yield to me for a moment?

Mr. BURTON. Certainly.

Mr. McCUMBER. The Senator must remember that it was not necessary to send to the children of the heirs at law the notice. Remember that this is not of recent origin. The appointment was made very many years ago, and the children of Van Camp, the heirs at law and next of kin, were alive and they received the notice; and it is not for the children's children or the grandchildren of the children to say that they had no notice that an appointment was made.

Mr. BURTON. There are no heirs of whom I know beyond the grandchildren. I do not want to enter into that controversy. I will state, however, that they say someone came to them about 1898 with a paper and asked them to sign it; that he even refused to read the paper, and, naturally, they refused to sign it. I, of course, take the statement of the Senator from North Dakota, although probably he has his information at second hand.

It is argued that this controversy can be left to the probate court. In the first place, while I am not familiar with the statute creating the probate court of the District of Columbia, I take it the court does not have any equity powers. These claimants may have assignments; they may have contracts. It is doubtful whether the probate court of the District of Columbia in passing on the question of compensation would have a right to declare those contracts canceled.

Then there is the question of the competency of Mr. Van Camp at the time of the making of the contract, which might perhaps be raised. These heirs are persons of very limited means. They do not wish to go into an extended litigation about this matter. They are fearful of their success in obtaining their rights, and it is for the Congress of the United States at this session, in this measure, to decide whether this compensation is not sufficient under any and all circumstances.

Mr. McCUMBER. I want to suggest to the Senator——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Dakota?

Mr. BURTON. Certainly.

Mr. McCUMBER. While they may be fearful of their own rights, they are not taking very much consideration of the rights of those who have given their services and who have prosecuted the cases without any assistance from them.

Mr. BURTON. Oh, Mr. President, I have already dwelt upon that point. Claims do not exist for the benefit or for the sake of attorneys, however much misconception in regard to that may prevail. They exist for the benefit of those and the heirs of those who have sustained damage or those to whom the Government is indebted. There is no more salutary lesson that could be conveyed to the attorneys than one which we might teach right here in this case—that we will not encourage the prosecution of claims against the Government by holding out the incentive to attorneys that they will get the whole of them. They are not free from their obligation to the clients whom they represent. If there is any relation which should be sacredly observed, it is that of the attorney to the client, and as a part of that relation it should be settled and fixed that to them is his first duty and not to himself. As an example of that relation, the attorney should never undertake a claim if he expects that the whole or the greater share of it is to come to himself, and that the heirs are to be left, as they would be in this case, with not more than $8,000 out of all this litigation and out of all this claim.

Mr. WARNER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. BURTON. Certainly.

Mr. WARNER. Not antagonizing the Senator's amendment, would it be hardly just to select one item in which we limit the fees without limiting the fees generally to the sums allowed in the bill?

Mr. BURTON. Certainly. We know something about this claim. The facts are before us. There are assignments out aggregating 65 per cent of it, and $5,000 besides.

Mr. McCUMBER. I want to correct the Senator.

Mr. BURTON. There is the threat that the heirs will obtain nothing.

Mr. McCUMBER. The Senator is not correct. That is not in accordance with the fact.

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Dakota?

Mr. BURTON. I would like to ask the Senator from North Dakota in what respect it is not correct.

Mr. McCUMBER. It is not correct to the extent of 15 per cent.

Mr. BURTON. Does the Senator from North Dakota deny that there have been two assignments, one of 50 and one of 10 per cent, and another claim of 5 per cent for administration, and still another assignment of $5,000?

Mr. McCUMBER. The amounts I have from the counsel who have been prosecuting these cases for the many years show that these are to come out of the original 50 per cent contract.

Mr. BURTON. How many counsel are there in this case—three or four attorneys?

Mr. McCUMBER. Three or four attorneys; but there are three in one firm.

Mr. BURTON. Is the Senator from North Dakota assured that those are all of the assignments outstanding?

Mr. McCUMBER. I am quite certain that that is true, from the most careful investigation I could give.

Mr. BURTON. Again, I do not propose to discuss the question of veracity between the heirs and certain attorneys, but my information is that there have been assignments aggregating 65 per cent and $5,000 besides.

Mr. WARNER rose.

Mr. BURTON. Does the Senator from Missouri desire to ask a further question?

Mr. WARNER. I feel that in these contingent matters attorneys should be paid and paid liberally. I am also cognizant of the fact that many of the contracts entered into in these matters are in excess of any reasonable fee. We limit the fee in pension matters. We had to do that. It would seem to me it would be appropriate in this case to put a limitation upon the fees to be allowed to attorneys. I will suggest to the Senator from Ohio that I propose to offer a substitute for his amendment limiting the fee in any case in the bill to not exceeding 25 per cent.

Mr. BURTON. Mr. President, I should vote for that amendment. I think I should state, however, that my reason for offering this amendment is that the situation is glaring, and the whole claim will probably be exhaused, with the heirs receiving scarcely more than a mere bagatelle. The situation is so unfavorable to them that they come before the Senate and ask that either this limitation be inserted or the whole item stricken out of the bill.

Now, Mr. President, unless there is some further discussion or unless someone desires to ask a question, I will submit the amendment to the Senate. I always very much dislike to take up a matter involving any personal element, but there is more than a personal phase to this. We are face to face with a general condition here, the disclosure of a situation which no doubt obtains in many other claims, namely, that practically the sole benefit of much that the Government is to pay out will accrue to attorneys and not to the claimants.

Mr. McCUMBER. Mr. President, what reason has the Senator from Ohio for proposing in the amendment that it shall be 40 per cent?

Mr. BURTON. I can state that very readily. I have already stated it.

Mr. McCUMBER. Why has not the Senator asked that it should be 25 per cent instead of 40 per cent?

Mr. BURTON. While the heirs recognize that there has been a service——

Mr. McCUMBER. What fact has the Senator that will justify him in fixing 40 per cent as a reasonable attorney's fee?

Mr. BURTON. It gives them more than $15,000, a fee which would not be despised by the average attorney or firm of attorneys, or, indeed, by a coterie of attorneys, even though they had been at work for some time.

Mr. McCUMBER. Then the length of time and the amount of service that they are performing under a solemn contract entered into between the decedent and the attorneys should cut no figure in the consideration of the case?

Let me call the Senator's attention to the fact that in 1858 two suits were started in the circuit court of the District of Columbia. They were suits involving a tort that had been committed at Apia, in the Navigator Islands. Has the Senator any knowledge of the amount of work that was expended in collecting the evidence and in producing witnesses, in paying for their attendance, and in trying the case in the circuit court of the District of Columbia? I shall wait, Mr. President, until the Senator from Ohio will give me his attention, because I am directing my question to him.

Mr. BURTON. Very well.

Mr. McCUMBER. The Senator has no knowledge of the labors that were performed; neither have I. I anticipate from the conditions, however, that they must have been considerable.

Now, remember, this was in 1858, when two cases had to be tried in the circuit court. Judgments were finally rendered.

The attorneys paid the expenses and conducted the actions. Twenty-eight years then elapsed. Does the Senator know how many times that case was before the committees during those 28 years; how many times it was acted upon by Congress; and how much labor was expended by attorneys during all of those 28 years? Finally, in 1886, both cases were tried again in the Court of Claims. Does the Senator have any information of the amount of labor that was expended in collecting the testimony and of the expenses that were incurred in the prosecution of those actions again before that court? Judgment was secured, and, as I am informed, the attorneys paid all the expenses again.

Again it was before Congress for 17 years longer. Year in and year out it was before the Committee on Claims of both Houses and was reported sometimes and sometimes failed of report. Has the Senator any information that we would be justified in passing judgment upon the value of the services that were expended during those years?

Further, it went before the Court of Claims in 1903, and again it was tried. Again the evidence had to be secured; again the attorneys had to pay the expenses. Neither the Senator from Ohio nor myself have very adequate ideas, I think, as to just exactly what those services were worth in the third trial of this action.

Then, again, for seven years longer this matter every year has been before Congress or its committees. I know the last 12 years from my personal knowledge of the matter, and the case having been referred to me once or twice while I was a member of the Committee on Claims. In 1910 we find the same attorneys or their successors still trying the same case. Is any Senator here more capable of passing judgment upon what the reasonable fee should be than the probate judge himself?

Mr. SMITH of Michigan. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Michigan?

Mr. McCUMBER. Certainly.

Mr. SMITH of Michigan. The Senator from North Dakota seems to be somewhat familiar with this matter, and I should like to inquire whether he knows the attorneys who have charge of this particular case.

Mr. McCUMBER. I know them, Mr. President.

Mr. SMITH of Michigan. I should like to ask the Senator whether this firm of attorneys represent other French spoliation claims included in this appropriation.

Mr. McCUMBER. I know of their having no part except in reference to this claim.

Mr. SMITH of Michigan. The Van Camp case?

Mr. McCUMBER. The Van Camp case. If they have any connection with any of the other cases, of course, I have no information concerning it.

Mr. BURTON. They are the attorneys in this Chapin claim as well, which is joined with it.

Mr. McCUMBER. I can not say positively, but I will assume that they are. I am not prepared to so assert.

Mr. BURTON. That was a part of the same general claim, was it not?

Mr. McCUMBER. They both grew out of the same tort.

Mr. BURTON. The Senator from North Dakota can not state of his own knowledge that these attorneys are not interested in other claims in the bill?

Mr. McCUMBER. I stated very plainly that I knew nothing of their interest in other cases.

Mr. BURTON. But the Senator can not affirmatively state that they are not interested.

Mr. McCUMBER. Mr. President, I can not affirmatively state that anybody is interested in some of these other cases, because I know nothing about it whatever.

The Senator says that if these attorneys have furnished anything for the support or living of the decedent that then they have their claim against the estate. I do not think that the Senator gave due consideration before he so expressed himself, or I think that he would have immediately concluded that many of these claims were long since outlawed, if they had any claims against the estate. They undoubtedly considered that it was necessary for them to help on the old man in order to assist in the prosecution of those cases, and to care for him as near as they could.

Mr. President, I do not think there is a Senator here who does not understand in a general way the authority of a probate court; that such court must necessarily pass upon the validity of any claim against the estate of the decedent,

whether the claim arises by attorneys' fees or whether it arises by reason of any other character of service or thing furnished for the decedent. If this decedent was incompetent at the time he made the last contract, that can be brought up at any time before the probate court; and if that fact is established, then all that the attorneys could receive would be upon the claim of quantum meruit for their services.

I submit, Mr. President, that, considering all of these years, the fee itself is not even adequate, and is not as much as the *ordinary attorney* would at least charge for the services that he would render. I submit, further, that when a contract has been made by a decedent, that that contract is assumed to have been made upon a usual and fair consideration and that the decedent was competent to make it.

I assume, thirdly, that if the attorneys for forty-odd years operated under that contract and rendered their services without any objection being made by any of the heirs that the fee was excessive the heirs are guilty of laches and are estopped from claiming that it is excessive after the services have all been performed.

Lastly, I submit that it is the province of the court having charge of the estate of the decedent to pass upon those questions, and not that of Congress. I now yield.

Mr. SHIVELY. Permit me to ask the Senator from North Dakota whether he has seen this contract.

Mr. McCUMBER. Yes, sir; I have seen it, and perhaps could get it in a very few minutes if the Senator wanted it. I have not got it here, but I have seen the contract and read all of it over.

Mr. SHIVELY. I wish the Senator would have the kindness to have it produced.

Mr. McCUMBER. I will try to get it.

Mr. SHIVELY. Now, permit me to ask the Senator a further question. I understood him in his remarks to say that judgment had been rendered in United States courts in favor of this claimant or these claimants. Against whom was that judgment or those judgments rendered?

Mr. McCUMBER. In the circuit court against Jenkins, the agent of the Government, who perpetrated the outrages upon the property of American citizens. The proceeds of the sale which was made by that agent were turned into the Treasury of the United States and a portion of them have been paid by the Government of the United States.

Mr. WARNER. I wish to offer what I send to the desk as a substitute for the amendment offered by the Senator from Ohio [Mr. BURTON].

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The SECRETARY. At the end of line 3, on page 185, it is proposed to insert the following:

Provided, That the attorneys' fees allowed in any case shall not exceed 25 per cent thereof.

Mr. BORAH. Mr. President, I want to ask the chairman of the committee if there is anything before the Senate by which it can be determined how much of these claims is now covered by attorneys' fees.

Mr. BURNHAM. There is nothing that I am aware of before the committee which indicates what share or what per cent will be due attorneys.

Mr. BORAH. Is this the only contention that has arisen between attorneys and clients?

Mr. BURNHAM. It is the only one which has come to our knowledge.

The PRESIDING OFFICER. The Chair understands the first question is on agreeing to the amendment offered by the Senator from Ohio [Mr. BURTON].

Mr. BURTON. Mr. President, I understand the Senator from Missouri [Mr. WARNER] has introduced an amendment to my amendment.

Mr. WARNER. As a substitute for the Senator's amendment.

The PRESIDING OFFICER. The Chair understood that that was to come in at another place in the bill.

Mr. WARNER. It does come in at another place, but it is as a substitute for the amendment of the Senator from Ohio, and therefore covers it.

The PRESIDING OFFICER. The Chair will then put the question on the amendment proposed by the Senator from Missouri [Mr. WARNER] to the amendment of the Senator from Ohio [Mr. BURTON].

Mr. McCUMBER. Just a moment, Mr. President. I understand that this 25 per cent amendment refers to all the claims mentioned in the bill. I certainly consider it unjust. Of course, if anybody wants to kill the bill or vote against the bill generally, I think that would be an appropriate amendment, but it does not seem to me to be at all just. I do not, however, care to make any remarks on it.

Mr. BRANDEGEE. I ask the Secretary to read that portion of the bill immediately preceding the amendment proposed by the Senator from Missouri [Mr. WARNER], so that we can see how the text will then stand.

The PRESIDING OFFICER. The Secretary will read as requested.

The SECRETARY. On page 185, commencing with line 1, section 2, the bill reads:

SEC. 2. That the foregoing several sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes of this act.

At the end of line 3, after the word "act," it is proposed to insert the following proviso:

Provided, That the attorneys' fees allowed in any case shall not exceed 25 per cent thereof.

Mr. BRANDEGEE. Mr. President, that does not seem to me to accurately express the idea which I think the Senator from Missouri [Mr. WARNER] had in mind. The words "25 per cent thereof" would seem to refer to the case and not to the amount collected.

Mr. WARNER. "Of the sum appropriated." I think it refers to that.

I have no objection, if the Senator from Connecticut thinks that the language is not sufficiently explicit, to a change. My only purpose is to have attorneys' fees 25 per cent of the sum allowed, or of the sum appropriated. I would change it so as to read, "25 per cent of the sum herein appropriated." How would that do?

The PRESIDING OFFICER. The Senator from Missouri modifies his amendment. The amendment, as modified, will be stated.

The SECRETARY. At the end of line 3, on page 185, it is proposed to insert the following:

Provided, That the attorneys' fees allowed in any case shall not exceed 25 per cent of the sums herein appropriated.

Mr. BRANDEGEE. Not of all sums herein appropriated, but of the sum appropriated in each particular case, I suppose the Senator means?

Mr. WARNER. I think the language first suggested was sufficient, but I am willing to say "of the sum appropriated in each case."

Mr. BRANDEGEE. I have no idea to suggest to the Senator from Missouri as to how his amendment should be prepared. I simply wanted to call his attention to the fact which I have suggested.

Mr. WARNER. I thank the Senator. I drew up the amendment hastily at my desk.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The question is on the substitute proposed by the Senator from Missouri [Mr. WARNER], as modified. It will be stated.

The SECRETARY. As modified the amendment reads:

Provided, That attorneys' fees allowed in any case shall not exceed 25 per cent of the sums herein appropriated in each case.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri in the nature of a substitute. [Putting the question.] The ayes appear to have it.

Mr. McCUMBER. I call for the yeas and nays on that, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I have a pair upon this vote with the junior Senator from Maine [Mr. FRYE]. He is absent, and I therefore withhold my vote.

Mr. BRADLEY (when his name was called). I am paired with the junior Senator from Tennessee [Mr. TAYLOR]. If that were not so, I should vote "nay."

Mr. CHAMBERLAIN (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. OLIVER]. If I were permitted to vote, I should vote "yea."

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the Senator from Missouri [Mr. STONE]. I transfer that pair to the Senator from New York [Mr. DEPEW] and vote. I vote "nay."

Mr. DILLINGHAM (when his name was called). I again announce my general pair with the senior Senator from South Carolina [Mr. TILLMAN], which I transfer to the Senator from Rhode Island [Mr. ALDRICH] and vote. I vote "yea."

Mr. FLINT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON]. As I am informed that he would vote "yea," if present, I take the liberty of voting. I vote "yea."

Mr. PAYNTER (when Mr. JOHNSTON'S name was called). The Senator from Alabama [Mr. JOHNSTON] is detained at home on account of illness.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGEN-

HEIM], who is necessarily detained from the Senate. I therefore withhold my vote.

Mr. PERKINS (when his name was called). I again announce my general pair with the junior Senator from North Carolina [Mr. OVERMAN]. He being absent, I withhold my vote.

Mr. PURCELL (when his name was called). I have a general pair with the Senator from New Jersey [Mr. BRIGGS]. Not knowing how he would vote, and he being absent, I withhold my vote. If he were present, I should vote "nay."

Mr. SHIVELY (when his name was called). I have a pair for the day with the senior Senator from New Hampshire [Mr. GALLINGER]. I transfer that pair to the junior Senator from Colorado [Mr. HUGHES], and vote. I vote "yea."

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I therefore withhold my vote.

The roll call was concluded.

Mr. BRADLEY. I transfer my pair with the junior Senator from Tennessee [Mr. TAYLOR] to the junior Senator from Rhode Island [Mr. WETMORE] and vote. I vote "nay."

Mr. BURNHAM. I desire to state that my colleague [Mr. GALLINGER] is necessarily detained and is paired with the junior Senator from Indiana [Mr. SHIVELY] for the day.

The result was announced—yeas 34, nays 14, as follows:

YEAS—34.

Beveridge	Clarke, Ark.	Hale	Rayner
Borah	Crane	Jones	Shively
Bourne	Crawford	Kean	Smith, Mich.
Brandegee	Cummins	La Follette	Smoot
Bristow	Curtis	Newlands	Sutherland
Brown	Dillingham	Nixon	Warner
Burkett	du Pont	Owen	Young
Burton	Flint	Page	
Carter	Gamble	Percy	

NAYS—14.

Bradley	Fletcher	Piles	Terrell
Burnham	McCumber	Scott	Thornton
Clark, Wyo.	Martin	Swanson	
Dick	Money	Taliaferro	

NOT VOTING—44.

Aldrich	Davis	Hughes	Richardson
Bacon	Depew	Johnston	Root
Bailey	Dixon	Lodge	Simmons
Bankhead	Elkins	Lorimer	Smith, Md.
Briggs	Foster	Nelson	Smith, S. C.
Bulkeley	Frazier	Oliver	Stephenson
Burrows	Frye	Overman	Stone
Chamberlain	Gallinger	Paynter	Taylor
Clapp	Gore	Penrose	Tillman
Culberson	Guggenheim	Perkins	Warren
Cullom	Heyburn	Purcell	Wetmore

So Mr. WARNER's substitute for Mr. BURTON's amendment was agreed to.

The PRESIDING OFFICER. The question now is upon agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. BURTON. Mr. President, a parliamentary inquiry. The amendment just adopted by the Senate pertains to a different portion of the bill from the one which I presented. Does the adoption of this amendment exclude from the bill the amendment in the form in which I presented it?

The PRESIDING OFFICER. The Chair understands that the amendment of the Senator from Missouri [Mr. WARNER] was offered as a substitute for the amendment of the Senator from Ohio, and having been agreed to as a substitute, it takes the place of the other amendment.

Mr. BURTON. The phraseology of the new amendment takes the place of the other amendment. There is another motion which I wish to make. There is an amendment that was adopted by the Senate several days since providing for leaving this question of compensation to the probate court of the District of Columbia. There may be some little question as to whether or not the general amendment now adopted prevails over that, and I move, Mr. President, that the Senate reconsider the vote by which that amendment was agreed to, so as to strike it out.

Mr. McCUMBER. I raise the point of order, Mr. President, first, that the Senator himself, as I understand, did not vote affirmatively upon that, and, secondly, that more than one day has elapsed since that amendment was adopted.

Mr. WARNER. Mr. President, I had in view in the amendment submitted by me that the probate court would pass upon the question of the fee in this case. The substitute expressly provides that the amount allowed shall not exceed the percentage named by the amendment, and I take it that it would merely govern the probate court in fixing the amount of the fee.

Mr. BURTON. I will say, Mr. President, that I had that suggestion in mind, and I was at first inclined to take the same view as that of the Senator from Missouri in this instance, but I question that somewhat, because the amendment regarding the probate court is a specific provision pertaining to this claim, which would naturally prevail over a general provision.

The PRESIDING OFFICER. The Chair has no information as to when this amendment was adopted.

Mr. McCUMBER. I will say to the Chair that it was adopted, I think, about three or four days ago.

The PRESIDING OFFICER. May the Chair ask the Senator from Ohio if he has any information as to the date of the adoption of the amendment?

Mr. BURTON. I do not have exact information about it.

The PRESIDING OFFICER. The point of order is sustained.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question now is on concurring in the amendments made as in Committee of the Whole.

Mr. BURTON. Mr. President, I wish a separate vote on the amendment on page 127.

The PRESIDING OFFICER. The Senator from Ohio asks for a separate vote on the amendment, which the Secretary will state.

The SECRETARY. On page 127, line 13, after the word "dollars," the following proviso was inserted:

Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.

Mr. BURTON. Mr. President, just a word in regard to that. The Senate has now adopted a general provision, which was clearly intended to apply to all claims, limiting the amount of compensation to be paid to attorneys to 25 per cent. It is a declaration of the policy of the Senate, one main object of which is to prevent what is called the trumping up of stale claims against the Government. There may be some question whether that general provision applies to the claim under consideration. I am inclined to think that it does not, in view of the amendment adopted a few days since. At any rate, to save from ambiguity this paragraph, which has led to the whole discussion and to the adoption of the general amendment, I make the motion to reconsider the vote by which this amendment, on page 127, was adopted, in order that this provision may square with the rest.

Mr. McCUMBER. Mr. President, there were a great many Senators who were absent when I explained this matter before. I assume that Senators will vote as they consider just in this matter; but I want to present again, if Senators will remain long enough to listen, the injustice of adopting an amendment of this kind.

In 1856, more than 50 years ago, the agents of this Government destroyed the property of a citizen of this country to the value of nearly $300,000. Action was immediately instituted by the owner of the property to secure redress. The property taken was everything that he had on the face of the earth. He was compelled to make an arrangement with some attorneys upon a contingent fee, because he himself had no property to answer for the expense of a prosecution of that case. He did enter into a written contract with those attorneys. Here is a contract going back more than 50 years. The attorneys prosecuted the case first against the agent, bringing two actions against him in 1858, two years after the offense had been committed.

Mr. HALE. And at their own expense?

Mr. McCUMBER. And at their own expense. Remember now, that this was only two years after the property had been destroyed, and yet the Senator from Ohio would refer to this as the trumping up of an old claim, a claim that was only 2 years old when the action was brought in the circuit court, and which had been presented to the Government for payment long before that time.

The attorneys prosecuted those cases to judgment under that contract. They had to come to Congress and ask that Congress appropriate for the same. For 28 years the matter was before Congress, these attorneys prosecuting the cases every year. In 1886 the case was again sent to the Court of Claims and was again tried by the same attorneys, they furnishing their own expenses, and prosecuting under a written contract with the claimant, which was reasonable and fair, considering the proposition that they were taking it upon a contingent fee, and that he himself had nothing to pay.

They got a judgment—that is, they got the findings and conclusions of the court—and the matter came up to Congress for another appropriation. For 17 years longer the matter was before Congress, and while committees reported several times in its favor, the bill making the appropriation never passed both Houses. So it was delayed for 17 years longer, until 1903, when again for the third time it was tried before the court.

The attorneys acted under their written contract, which had never been objected to, either by the man who made the contract or by his children, who accepted the services of the attorneys under that written contract, and the expenses were paid out by them for the prosecution of this case. Again it came before Congress, and for seven years more it has been prosecuted, each year by the same firm of attorneys, the older ones dying and the younger ones taking their places as successors in the contract; and until the present time there has not been one word of complaint against the written contract entered into by the decedent by a single one of the heirs. Not one of the heirs has furnished one penny in the prosecution of these cases for 50 years; but at one time, as the attorneys considered that the matter of the probate of the estate probably did not come under their contract, and that they were not to pay that expense, when they requested the heirs to at least pay the expenses of getting the estate probated, so that they could continue the action in the name of the personal representatives of the estate, the heirs answered that they would pay nothing; that the attorneys could go ahead and prosecute the case.

The attorneys went on with this prosecution year after year, tried these three cases, secured their evidence from Apia, in the Navigator Islands, paid all the expense, and tried and retried the case under a written contract that has never been questioned in the slightest degree. Now, I submit that it is rather late for a grandchild of the decedent to come in at this time and say that 50 per cent of the fee is an exorbitant charge.

I know the Senator says that the heirs claim that the decedent entered into contracts that would make 65 per cent, and I am perfectly willing, if he thinks there is any question between his view of it and mine, to say that it shall not exceed 50 per cent. That would end it—a difference of 10 per cent between his contention and what I say was the honest contract which was entered into with the attorneys. It was a contract into which the decedent had the right to enter; it was prosecuted for nearly 30 years, while he was alive, without any objection upon his part; it has been prosecuted for 20 or 25 years since that time by the same attorneys or their successors, and not one of the children ever made any objection; and now a grandchild finally comes in, when the claim is about to be allowed, and says that this 50 per cent is an excessive fee and that it ought not to be allowed. I say that is certainly extremely unjust.

The amount allowed now aggregates, I think, $38,000. There are four attorneys that I know of who are engaged and have been engaged right along in the trial of this action. Giving them 50 per cent, it would amount to $19,000 for 50 years of service; and I insist it is not excessive.

But, Mr. President, if any Senator things that it is excessive, or if these heirs of the decedent think it is excessive, they have their rights in the probate court, because we have already adopted an amendment, which the Senator from Ohio now wishes to destroy, providing that not one dollar shall be paid out of this sum until the probate court has passed upon all contracts for the payment of attorneys' fees and has approved of them.

I assume that the probate court will not approve of them unless they are reasonable and fair and just, and there is not a Senator here who is capable to-day of passing judgment upon what this charge should be; and, admitting his incapability to pass upon it, is he willing to take upon himself the authority to destroy a written contract made over 50 years ago, under which the parties have continued their services until they are about to secure a portion of the claim?

I think this question should go right where the amendment sends it—to the probate court; and if the probate court thinks that these 50 years of services are worth less, with all the expenses and all the probating fees paid by the attorneys, than 50 per cent of what they seek to recover, then, of course, the attorneys will have to abide by it.

But I submit, Mr. President, it is unjust for Senators to attempt to pass judgment upon that contract and to say that it is not right; and it is equally unjust for the grandchildren of the man who made the contract 50 years ago, and who continued that contract and who renewed it in 1883, under which all the services have been carried on without objection from him and without objection from his immediate heirs, to now say that they will hold up the attorneys "if we can not get more than this," because the increase in the number of heirs has been such that there will not be so much coming to each beneficiary as there would have been when the heirs consisted of only the children. Upon that ground the husband of one of these grandchildren has come to the conclusion that his share will not be so much as he thinks it ought to be.

I do not think that a delay until the number of heirs has increased to such an extent that the division must necessarily be small would hardly justify us in setting aside a contract, especially when we all admit that we can not say that that contract was not fair upon its face.

I am certain, from what I know of the case, that there is not an attorney in the land who would have put in the work that has been put in on this case and charged less than 50 per cent of the claim.

Mr. BURTON. Will the Senator from North Dakota yield to me for a question?

Mr. McCUMBER. Certainly.

Mr. BURTON. Does the Senator regard the provision inserted several days since in the paragraph on page 127 as prevailing over the general provision of 25 per cent which the Senate has just adopted by vote?

Mr. McCUMBER. I should certainly hope that it did.

Mr. BURTON. That strengthens the position I took a few moments ago, that we should put this beyond peradventure.

Mr. McCUMBER. I should hope that it did. That is the reason I let it go, because I considered that it did.

Mr. BURTON. And the amendment adopted as in Committee of the Whole should be defeated. I trust Senators will understand the question about to be submitted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed a bill (H. R. 29495) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1911, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 21331) for the purchase of land for the widening of Park Road, in the District of Columbia, and it was thereupon signed by the Vice President.

URGENT DEFICIENCY APPROPRIATIONS.

Mr. HALE. Mr. President——

Mr. BURTON. I shall not take any time. Does the Senator from Maine desire the floor?

Mr. HALE. There is an appropriation bill on the Vice President's table which I desire to have considered.

The VICE PRESIDENT. The Chair was about to lay before the Senate a message from the House of Representatives whenever the Senator from Ohio would yield the floor for that purpose.

Mr. BURTON. I yield now.

Mr. HALE. It will take only a few moments. I ask the Chair to lay before the Senate the urgent deficiency bill.

The VICE PRESIDENT laid before the Senate the bill (H. R. 29495) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1911, and for other purposes, which was read twice by its title.

Mr. HALE. To hasten the adjournment, I ask the Senate to proceed to the consideration of the bill.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Secretary proceeded to read the bill.

Mr. HALE. I offer the amendment I send to the desk.

The SECRETARY. On page 1, after line 7, it is proposed to insert:

DEPARTMENT OF STATE.

Contingent expenses, foreign missions: To enable the President to provide, at the public expense, all such stationery, blanks, records, and other books, seals, presses, flags, and signs as he shall think necessary for the several embassies and legations in the transaction of their business, and also for rent, postage, telegrams, furniture, including typewriters and exchange of same, messenger service, compensation of kavasses, guards, dragomans, and porters, including compensation of interpreters, and the compensation of dispatch agents at London, New York, and San Francisco, and for traveling and miscellaneous expenses of embassies and legations, and for printing in the Department of State, and for loss on bills of exchange to and from embassies and legations, for the fiscal year ending June 30, 1911, $50,000.

The amendment was agreed to.

Mr. HALE. I offer the following amendment.

The SECRETARY. On page 3, after line 8, it is proposed to insert:

CAPITOL.

For work at Capitol and for general repairs thereof, including flags for the east and west fronts of the center of the Capitol and for Senate and House Office buildings; flagstaffs, halyards, and tackle; wages of mechanics and laborers; purchase, maintenance, and driving of office vehicle, and not exceeding $100 for the purchase of technical and necessary reference books and city directory; and for special repairs Senate wing, $2,500.

To pay the Sinclair-Scott Co. for damage to property of said company while temporarily in possession of the Government and in the charge of the Superintendent of the United States Capitol Building and Grounds, $1,636.14.

The amendment was agreed to.

Mr. HALE. I offer the amendment I send to the desk.

The SECRETARY. On page 5, after line 10, it is proposed to insert:

SENATE.

For compiling and indexing reports and hearings when necessary of Senate committees and joint committees of the Senate and House of Representatives under Pitman Pulsifer, indexer, as provided in the act making appropriations for sundry civil expenses of the Government, approved June 25, 1910 (36 Stats., p. 766), $6,500, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. HALE. I offer the following amendment:

The SECRETARY. On page 6, line 11, after the word "the," to strike out "appropriation of $40,000 made" and insert "appropriations for salaries, office of the Chief of Weather Bureau, and," and in line 14, after the word "eleven," to insert ", not to exceed," so as to make the clause read:

To enable the Public Printer to take over certain printing work done in the central office of the Weather Bureau there is hereby transferred from the appropriations for salaries, office of the Chief of Weather Bureau, and for the maintenance of a printing office in the Weather Bureau at Washington for the fiscal year 1911, not to exceed the sum of $20,000, to be expended by the Public Printer for printing and binding for said bureau for the balance of the current fiscal year.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. BORAH. I desire to inquire of the chairman what is the salary fixed for the five extra circuit judges. I understood the Clerk to read $10,000.

Mr. HALE. It is $7,000 each.

Mr. SMITH of Michigan. Seven thousand dollars each.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

OMNIBUS CLAIMS BILL.

The Senate resumed the consideration of the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes.

Mr. BURTON. Mr. President, a parliamentary inquiry. I should like to inquire if the amendments adopted in the Committee of the Whole to the pending bill, save the one on which I have requested a separate vote, have been concurred in in the Senate.

The VICE PRESIDENT. The Chair understands not. That matter came up while the present occupant of the chair was out of the Chamber. Demand was made for a separate vote upon one amendment, that on page 127. The demand was made by the Senator from Ohio, as the Chair understands.

Mr. BURTON. The vote on that amendment will naturally follow the disposition of the other amendments.

The VICE PRESIDENT. Is a separate vote demanded on any other amendment? If not, the question is on concurring in all of the amendments made as in Committee of the Whole save the amendment on page 127.

Mr. BURTON. After the amendments that were agreed to in the Committee of the Whole shall have been disposed of, the bill will be open to amendment in the Senate?

The VICE PRESIDENT. It will still be open to amendment in the Senate.

Mr. BURTON. Very well.

The VICE PRESIDENT. The question is on concurring in the amendments made as in Committee of the Whole, except the amendment on page 127.

Mr. McCUMBER. What is the exact question?

The VICE PRESIDENT. On concurring in all amendments made as in Committee of the Whole save the amendment on page 127, line 13.

The amendments were concurred in.

Mr. BURTON. I ask for a separate vote on the amendment on page 127. I will ask to have the Secretary read the amendment.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 127, line 13, after the word "dollars," insert the following proviso:

Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.

Mr. BORAH. Am I to understand that the Senator from Ohio is seeking to eliminate that proviso from the bill?

Mr. BURTON. Yes.

The VICE PRESIDENT. The Senator from Ohio opposes that amendment, as the Chair understands.

Mr. BURTON. That is the fact.

Mr. BORAH. As I understand, we adopted an amendment a few moments ago limiting any attorneys' fee to not exceeding 25 per cent.

Mr. BURTON. I will explain by saying that, without examining the exact phraseology of the two amendments, I should doubt whether the general provision limiting fees to 25 per cent would prevail over the specific provision in this section, and to remove any doubt I think this amendment should be voted down. It certainly can do no harm to vote down the amendment.

The Senator from North Dakota [Mr. McCUMBER] spoke at some considerable length, evidently on the theory that this amendment on page 127 was still effective. I understand the action of the Senate to have been against his contention.

Mr. BORAH. Will not the effect of leaving both these amendments in the bill be to enable the probate court to fix the amount at not to exceed 25 per cent?

Mr. BURTON. It is quite likely that that would be the conclusion reached by the probate court, but the Senator from Idaho knows, of course, the general legal maxim or principle that the specific provision prevails over the general; and I do not feel certain, without an examination of the exact phraseology——

Mr. BORAH. I should like to ask that both of the amendments with reference to limiting the attorneys' fees and fixing the attorneys' fees be read for the information of the Senate.

The VICE PRESIDENT. Without objection, the Secretary will read the amendment on page 127.

The SECRETARY. On page 127, line 13, after the word "dollars," insert the following proviso:

Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.

The second amendment is on page 185, after line 3, to insert the following proviso:

Provided, That the attorneys' fees allowed in any case shall not exceed 25 per cent of the sums herein appropriated in each case.

Mr. BURTON. Mr. President, it seems to me as if the latter provision would prevail. I think, however, we had better vote down the first amendment read.

Mr. BORAH. In view of the rule that we should construe both and all parts of a statute to stand, it would seem to me that both provisions would be effective; and while the court might fix the amount, it could not fix it to exceed 25 per cent.

Mr. SMITH of Michigan. I think if the Senator from Idaho will examine the amendment of the Senator from North Dakota [Mr. McCUMBER] he will find that it deals not only with the fees, but with the expenses incident to this litigation.

Mr. BORAH. Quite true.

Mr. SMITH of Michigan. And that might have a very decided bearing upon the amount finally realized by the claimant.

Mr. BORAH. But that would not change the legal proposition which I have just suggested, and that is, while the court would have jurisdiction to fix the attorney's fee, it could not fix it to exceed 25 per cent.

Mr. McCUMBER. I understand that the vote now is upon concurring in the amendment that was offered by the Senator from North Carolina the other day and which was adopted, an amendment that was agreed to by the heirs, or one of the heirs, of the decedent. I should like to vote intelligently upon this motion to strike out the amendment that was then agreed upon. I should like, if I could, to have other Members of the Senate vote intelligently upon the same question.

I do not know how any of us are going to do that, unless somebody can furnish us with the reasons why a contingent contract for 50 per cent for conducting litigation under that contract for 50 years, without objection by the heirs, for 30 years without objection by the decedent, should now be set aside by the Senate of the United States, when admittingly they do not know anything about it and do not know anything about the amount of the services rendered under the contract.

I am willing, and I have suggested it as the proper way out, if there is any question, to allow the probate court of this city to pass judgment upon the question whether the contract ought to be enforced; and, as is suggested by the Senator from Maine, that is fair. If it is unfair, I should like to know wherein it is unfair. Why should the Senate, after admitting that they do not know anything about the attorneys' fees in all the other cases, and without any knowledge, having fixed them at 25 per cent, then, with the knowledge of this case and all the facts I have given, and which are indisputable, take it upon themselves to do what every Senator must admit to be unjust, considering the amount of work done?

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Connecticut?

Mr. McCUMBER. I yield.

Mr. BRANDEGEE. With respect to the amendment limiting the compensation of attorneys to 25 per cent, how does the Senator understand it is to be enforced or can be enforced?

Mr. McCUMBER. I do not suppose that a claim on the part of attorneys, when the payment is made, if it is made to them directly, could be over 25 per cent; that is all.

Mr. BRANDEGEE. But suppose the parties themselves collect the money and settle with their own attorneys, would this provision then have any effect as a limitation upon the amount?

Mr. McCUMBER. Certainly; if they felt so disposed. But suppose a case where a contract had been made for a contingent fee, and where the heirs themselves have by asking for this amendment announced that they do not propose to live up to the contract made by the decedent, although all the expenses have been paid by the attorneys, and 50 years' litigation has been conducted without their assistance.

Mr. BRANDEGEE. Has the Senator——

Mr. McCUMBER. I am willing to leave the contract just as it is. I do not want the Senate to interfere with it. I was perfectly willing to leave it in the first place as it was and let it be settled by the proper court. There is a court here in the District of Columbia, a probate court, that has jurisdiction over the estates of decedents. Before any claim can be paid pertaining to such an estate out of those funds it must be approved by that court. That includes attorneys' fees and everything else connected with it. That being the case, if the heirs at law have any just objection either on the ground that it is excessive, that it was extortionate, or that the decedent was incompetent, it can be urged upon the court and tried before the court before the court will pass judgment upon any one of these claims. Why do we need any more than that?

Mr. SMITH of Michigan. It is very apparent that Congress has no power whatever to vitiate this contract between private parties. If the money is once paid into the hands of the claimant this limitation upon the appropriation will have no force at all. We have no power to invade the field of private contract and nullify outstanding obligations, and after these claimants get the money in their possession they may do with it as they please; and it is very evident here that they are preparing for a mortal combat among themselves, which might, with perfect propriety, be postponed until other necessary obligations of the Government have been met. I deem it far more creditable to us to pass the deserving claims of aged soldiers of the Republic who need relief in their old age, and that necessary public buildings in course of construction should be completed, than that a premium should be placed on speculative legal services of this character.

Mr. McCUMBER. There is no question about it that the parties might have a claim against the persons for a division with the parties receiving it. Attorneys, and most of the Senators here are attorneys, fully understand how weak that would be in this case. They, furthermore, fully understand that the contract which allowed the attorney to collect should have it paid into the attorney's hands. He was protected; he performed his services under a contract that gave him a protection. He would not undoubtedly have made a contract had he anticipated that Congress would have come in and of its own volition, without one atom of reason, seek to break that contract without even investigating its validity.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Connecticut?

Mr. McCUMBER. I yield, Mr. President.

Mr. BRANDEGEE. Is it not the theory of the amendment that has been put on here that Congress has authority to put a limitation upon its own appropriation?

Mr. McCUMBER. Certainly. While Congress can not vacate that contract, Congress can so act in the appropriation that it will nullify the contract. That is the point.

Mr. SMITH of Michigan. But when the disbursing officer of the Government pays this money over to the claimant, the lawyers taking no part whatever in its distribution at that time, it will fall into the hands of the claimant for such disposition as he or she may make of it, and Congress is powerless to impose any limitation upon its distribution at all.

Now, then, in order to overcome this limitation the lawyers can refrain from pressing their claim upon the probate court and rely upon their private contract with these parties. I am free to say, Mr. President, that I do not like this aspect of the case.

Mr. McCUMBER. I think the Senator will agree that when this sum is paid out it will be the duty of the disbursing officer to see to it that it does not go through the hands of the attorneys, but goes into the hands of the claimants, at least not to exceed 25 per cent, under the authority given for the disbursing of this fund; and when it goes into the hands of the claimant the Senator understands as well as I do that it would be almost impossible, under the conditions, for the attorneys to collect their fees. The sum might be so small to each one of all these numerous heirs that they could all make a claim under the rule of law which allows them to make a claim of a certain amount that is free from execution.

Mr. SMITH of Michigan. If the Senator will pardon me, if these attorneys do not participate in the distribution of the fund by the Government, it will be handed over directly to the claimant. Here is the Van Camp claim that the Senator has spoken of. If this $38,000 is paid to the Van Camp claimants, they may do with it what they please.

Mr. McCUMBER. There is the trouble.

Mr. SMITH of Michigan. They may give it all away to counsel or friends. If the attorneys rely upon the contract between Van Camp and his counsel and do not seek to arrest this fund in its distribution by the Government, this amendment will have no application at all. I can not see my way clear to support this bill, burdened as it is with contingent fees and remote collateral claimants.

Mr. McCUMBER. The Senator is undoubtedly not aware of one condition in this case, that under the bill the funds are to be paid to the Washington Loan & Trust Co., representative of the estate of Aaron Van Camp. It is not paid directly to the heirs at all. Then there is a provision that when this is paid by the disbursing officer it must be paid upon conditions, one of the conditions of which is that the heirs at law must have at least 75 per cent of it. Of course that would be carried out. Of course they could do as they saw fit with 75 per cent of it, or with all of it; and from their attitude here those people who have taken no part and paid out not one cent in the prosecution would so take care of their proportion that the attorneys would get mighty little of it.

It does seem to me that the attorney who has taken all the chances in the case, who has furnished all the funds for the prosecution of the case, is entitled to be considered when it is a question whether he will receive or lose his fees.

Mr. BURTON. Mr. President, just a word. The retention of this paragraph adopted by amendment in Committee of the Whole might be more favorable to the heirs, but we should make the bill uniform. The general provision which has been adopted here is a 25 per cent limitation on fees. So this exceptional paragraph relating to this one item should be taken out.

I am not going to answer the Senator from North Dakota at any length. Here is a claim that is whittled down to $38,750, which he says was originally $300,000. Part of the $300,000, perhaps two-fifths, belongs to another claimant, but the amount awarded by reason of the services of these attorneys shows a great reduction from the original claim. I do not think those attorneys could come before Congress or before any court of equity with any favorable showing of results achieved.

According to the understanding of the heirs, they would receive from the $38,750 only about $7,000 or $8,000. They come here saying, rather than to have the claim disposed of in that way, with the attorneys receiving so large a share, they would prefer to have it stricken out of the bill entirely. The Senator from North Dakota must recognize that the Senate has just adopted an amendment limiting to 25 per cent the amount that can be paid to any attorney on any claim, but he has at very great length alleged reasons why this should be excepted from this general rule.

Now, Mr. President, this bill is very largely made up of French spoliation claims which owners and heirs to the great-great-great-grandchildren, with their attorneys, have been prosecuting here before courts and before Congress for 110 years. How much longer a tale and how much more pathetic an appeal they could present to the Senate than the attorneys for this claim, who started out with a claim of $300,000 and now offer to the heirs the prospect of obtaining seven or eight thousand after their fees are paid. There certainly should be no discrimination in the fees allowed to attorneys for this claim, and the amendment made in Committee of the Whole should be rejected.

Mr. McCUMBER. Mr. President, because the Senate acted in one instance upon something that they confessedly know little about, the relation of claims existing between client and attorney, is no reason why the Senate should act the same way

on something it does know something about, and has been informed about, and upon which it must admit that the claim is absolutely just. So I think the argument of the Senator from Ohio is not sound in that respect.

I know something about the time it takes to prosecute these cases. I have no information that the attorneys have not acted with diligence. I think those who represented the French spoliation claims have so acted, and I have heard no criticism against them. I think the body that has not been diligent or fair in the matter has been Congress and not the claimants or their attorneys.

Mr. President, I do not like to see Congress take it upon itself by a vote to strike out a contract which it does not say is wrong, and which on every principle is right and ought to be enforced.

The Senator from Ohio says that the heirs would rather get nothing than get the little amount. Yes; and the Government would rather that the attorneys should get nothing than to get their just fees. That seems to be the position. If we can not deprive them of receiving what they are entitled to receive, under the contract, we would rather that the whole claim should go to the wall. The heirs have nothing to lose in the matter, because they have expended no money and they have expended no services, whereas the attorneys have expended years of service, and they have expended their money in the prosecution of these claims. It is a very easy thing for them to say, "We are nothing out, anyway; we have expended nothing in it;" but it is unjust for them to attempt to enforce a theory of that kind as against those who have performed the service and paid the expenses.

Mr. President, I suggest the want of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clarke, Ark.	Jones	Shiveley
Borah	Crane	Lodge	Simmons
Bradley	Crawford	Lorimer	Smith, Md.
Brandegee	Cummins	McCumber	Smith, Mich.
Bristow	Curtis	Martin	Smoot
Brown	Dick	Newlands	Swanson
Burkett	Dillingham	Page	Taliaferro
Burnham	du Pont	Paynter	Terrell
Burton	Fletcher	Percy	Thornton
Carter	Flint	Piles	Warner
Chamberlain	Gamble	Purcell	Young
Clark, Wyo.	Hale	Rayner	

The VICE PRESIDENT. Forty-seven Senators have answered to the roll call. A quorum of the Senate is present. The question is on concurring in the amendment made as in Committee of the Whole, which the Secretary will again read.

The SECRETARY. On page 127, line 13, after the word "dollars," insert the following proviso:

Provided, That all claims for services or expenses of attorneys in the prosecution of this claim shall be approved by the probate court of the District of Columbia before the same shall be paid out of the aforesaid sum.

Mr. McCUMBER. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I desire to announce that I have a general pair with the junior Senator from Maine [Mr. FRYE], and I therefore withhold my vote, as he is absent.

Mr. CHAMBERLAIN (when his name was called). I am paired with the junior Senator from Pennsylvania [Mr. OLIVER], and withhold my vote.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the Senator from Missouri [Mr. STONE] and withhold my vote.

Mr. DILLINGHAM (when his name was called). I again announce my pair with the senior Senator from South Carolina [Mr. TILLMAN] and the transfer of my pair to the Senator from Rhode Island [Mr. ALDRICH]. I vote "yea."

Mr. PAYNTER (when Mr. JOHNSTON'S name was called). The Senator from Alabama [Mr. JOHNSTON] is still ill and unable to attend the session of the Senate.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM], who is necessarily detained from the Senate. I therefore withhold my vote.

Mr. PURCELL (when his name was called). I am paired with the junior Senator from New Jersey [Mr. BRIGGS]. If he were present and voting I should vote "yea."

Mr. RAYNER (when his name was called). I am paired with the junior Senator from Arkansas [Mr. DAVIS].

Mr. SHIVELY (when his name was called). I again announce that I am paired for the day with the senior Senator from New Jersey [Mr. GALLINGER]. I transfer my pair to the junior Senator from Colorado [Mr. HUGHES] and vote "nay."

The roll call having been concluded, the result was announced—yeas 16, nays 25, as follows:

YEAS—16.

Borah	Dillingham	Lorimer	Piles
Bradley	du Pont	McCumber	Swanson
Brandegee	Fletcher	Martin	Taliaferro
Burnham	Hale	Newlands	Thornton

NAYS—25.

Bourne	Crawford	La Follette	Taylor
Bristow	Cummins	Lodge	Terrell
Brown	Curtis	Page	Warner
Burkett	Dick	Percy	Young
Burton	Flint	Shively	
Carter	Gamble	Smith, Mich.	
Clarke, Ark.	Jones	Smoot	

NOT VOTING—51.

Aldrich	Cullom	Johnston	Richardson
Bacon	Davis	Kean	Root
Bailey	Depew	Money	Scott
Bankhead	Dixon	Nelson	Simmons
Beveridge	Elkins	Nixon	Smith, Md.
Briggs	Foster	Oliver	Smith, S. C.
Bulkeley	Frazier	Overman	Stephenson
Burrows	Frye	Owen	Stone
Chamberlain	Gallinger	Paynter	Sutherland
Clapp	Gore	Penrose	Tillman
Clark, Wyo.	Guggenheim	Perkins	Warren
Crane	Heyburn	Purcell	Wetmore
Culberson	Hughes	Rayner	

The VICE PRESIDENT. The amendment is lost.

Mr. McCUMBER. I wish to ask the Chair, as I did not hear the vote announced clearly, whether it indicated that a quorum is present.

The VICE PRESIDENT. With the announcement of those present who stated that they were paired, and therefore withheld their votes, a quorum was shown to be present.

Mr. McCUMBER. I suggest the want of a quorum at the present time.

The VICE PRESIDENT. At the present time?

Mr. McCUMBER. Yes.

The VICE PRESIDENT. The Senator from North Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Clark, Wyo.	Jones	Shively
Borah	Clarke, Ark.	La Follette	Smith, Mich.
Bourne	Crane	Lodge	Smoot
Bradley	Crawford	Lorimer	Swanson
Brandegee	Cummins	McCumber	Taliaferro
Bristow	Curtis	Martin	Taylor
Burkett	Dick	Newlands	Terrell
Burnham	Dillingham	Page	Thornton
Burrows	du Pont	Paynter	Warner
Burton	Fletcher	Percy	Young
Carter	Flint	Piles	
Chamberlain	Gamble	Purcell	
Clapp	Hale	Rayner	

Mr. McCUMBER. I should like to ask at this time whether the roll call discloses that a quorum is present.

The VICE PRESIDENT. The roll call discloses the presence of 49 Senators who have answered to their names. A quorum of the Senate is present.

Mr. HALE. Mr. President, I do not want to interefere with the Senator from North Dakota [Mr. McCUMBER], but it is evident that no further business can be done to-day. I therefore move that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 4 minutes p. m.) the Senate adjourned until Monday, December 19, 1910, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December 17, 1910.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

URGENT DEFICIENCY BILL.

Mr. TAWNEY. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 29495, the urgent deficiency appropriation bill. And pending that I ask unanimous consent that general debate be closed in five minutes.

The SPEAKER. The gentleman from Minnesota moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of H. R. 29495, the urgent deficiency appropriation bill. And pending that he asks unanimous consent that all general debate close on this bill in five minutes. Is there objection?

There was no objection.